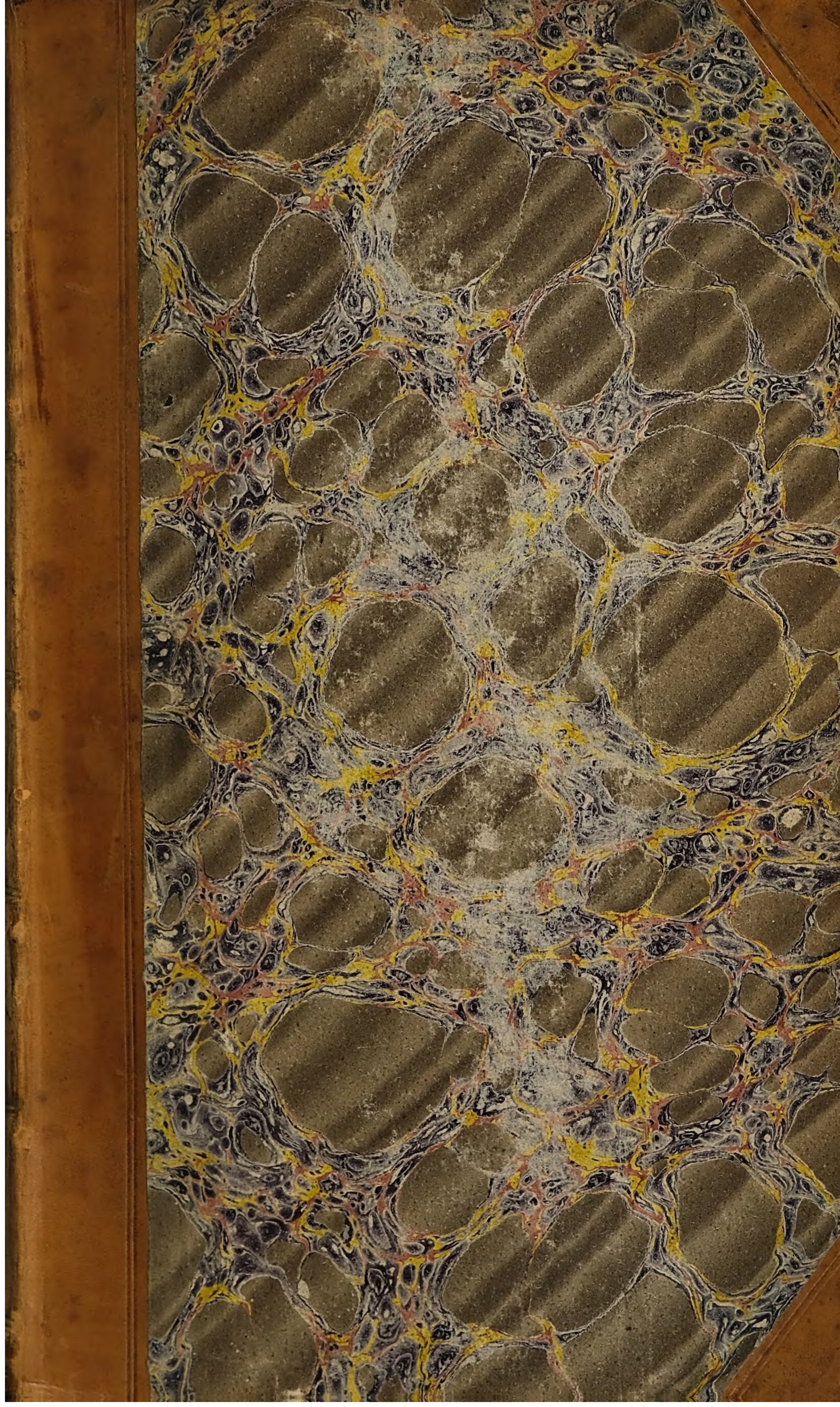


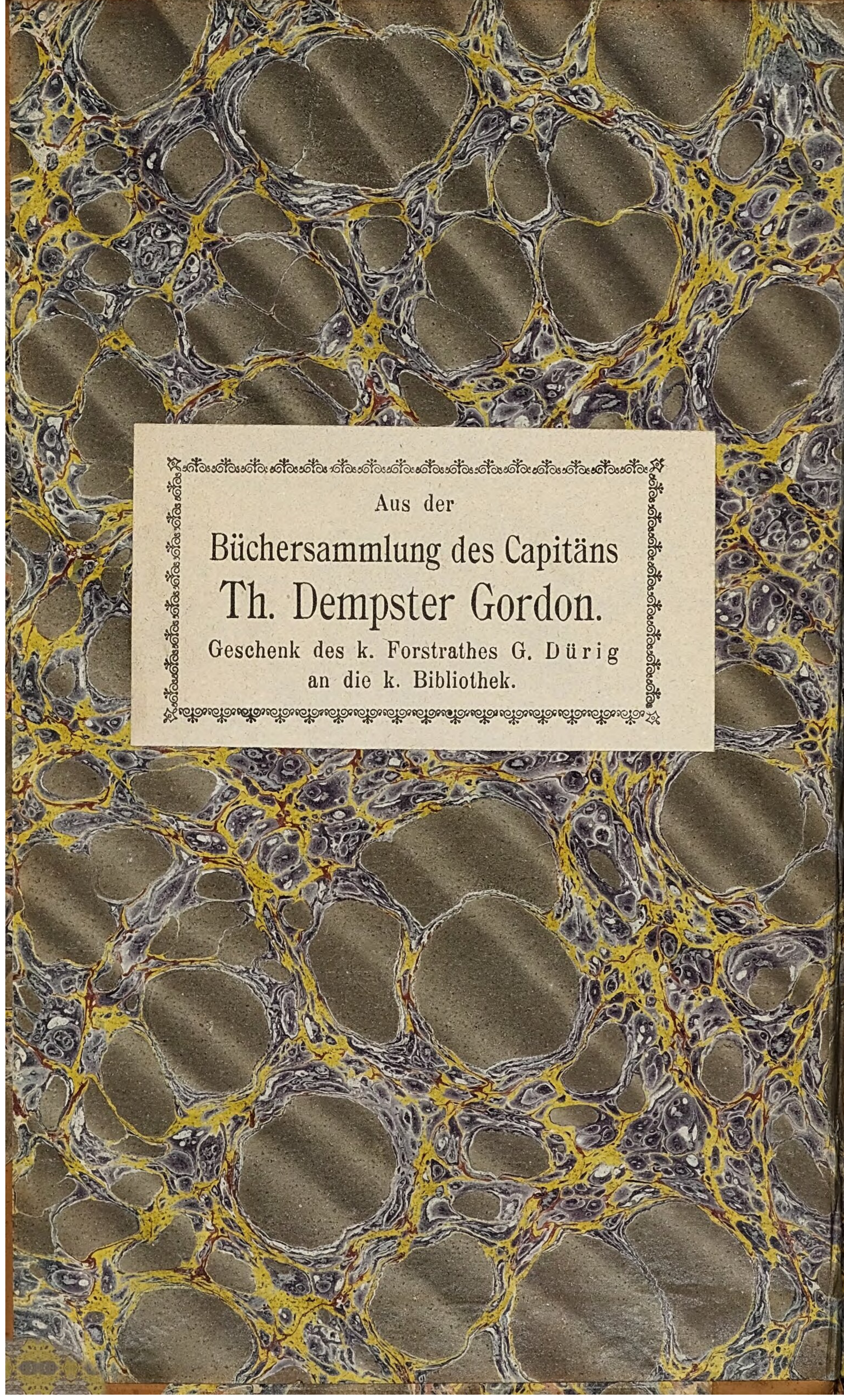
Gurney, Joseph / Gurney, Joseph, / Whitelocke, John,

The Proceedings Of A General Court Martial, Held At Chelsea Hospital, On
Thursday, January 28, 1808, And continued, by Adjournment, till Tuesday,
March 15, For The Trial Of Lieut. Gen. Whitelocke, Late Commander-in-Chief
of the Forces in South America
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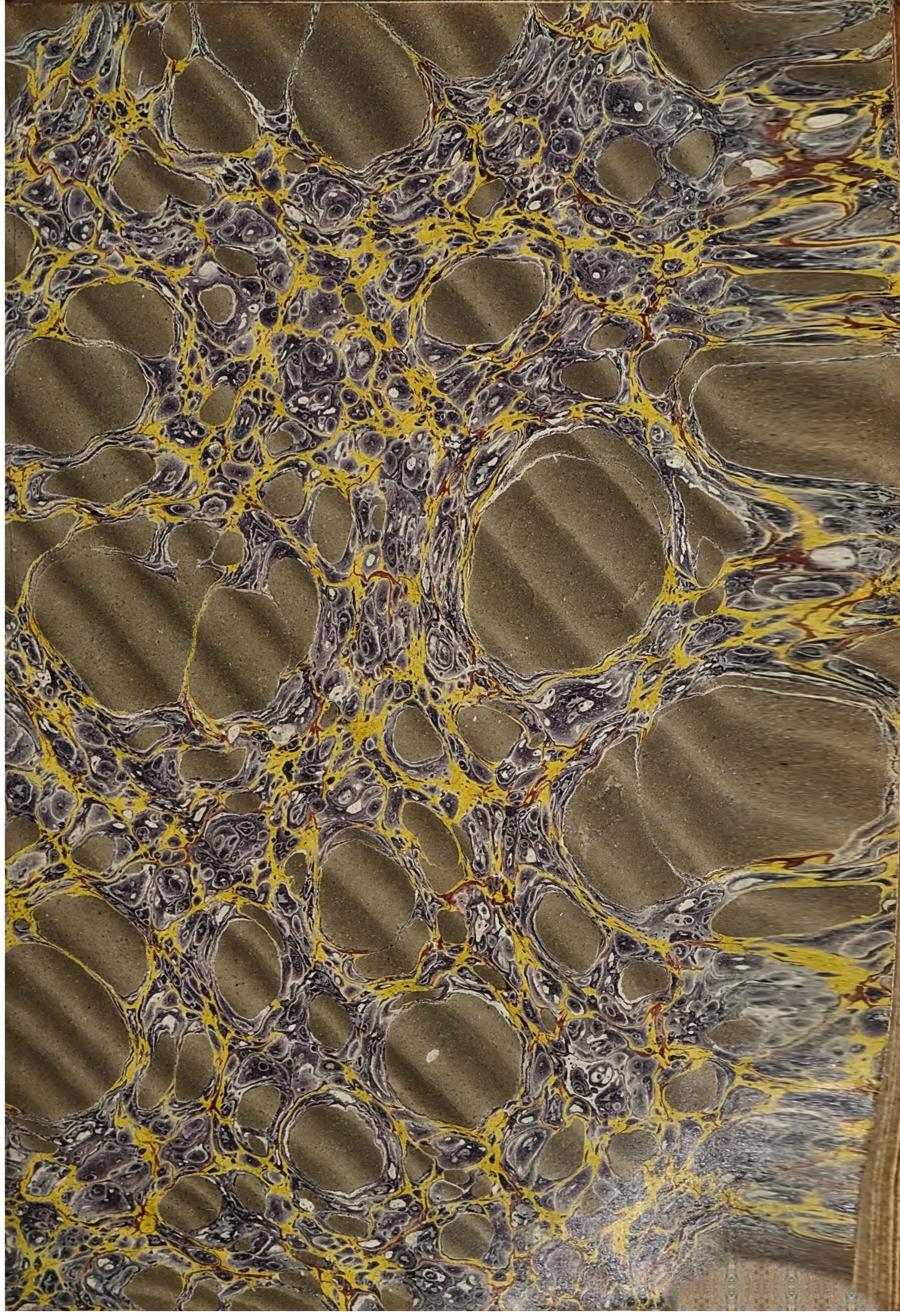
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The background of the entire image is a traditional marbled paper pattern, often called a 'stone' or 'shell' pattern. It features large, irregular, light-colored (off-white or light grey) 'cells' or 'islands' separated by a network of fine, branching veins in shades of yellow, ochre, and dark grey or black. The overall effect is organic and complex.

Aus der
Büchersammlung des Capitäns
Th. Dempster Gordon.
Geschenk des k. Forstrathes G. Dürig
an die k. Bibliothek.



Bq.

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2

- A. *Catedral.*
- B. *Collegio.*
- C. *Combento di San Franca*
- D. *Combento di Santo Don*
- E. *Hospital y Combento di*
- F. *Tolcia y Edificios de*
- G. *Capilla de Santa Lucia*
- H. *Parroquia de Nuestra Sene*
- K. *Parroquia de Nuestra Sene*
- L. *Combento de San Juan Mo*
- M. *Parroquia de Nuestra Sene*
- N. *Combento de la Guernan y*
- O. *Parroquia de San Nichola*
- P. *Combento de Padres Merca* 49
- Q. *Combento de Monsas de S*
- R. *Capilla de Nuestra Senora*
- S. *Combento de Religiosos Re*
- T. *Hospital de Caridad.*
- Y. *Casa de Ninos Expositos.*
- X. *Casa de Exercicios.*
- Z. *Hospital de Combalescencia*
de los Belemitas.

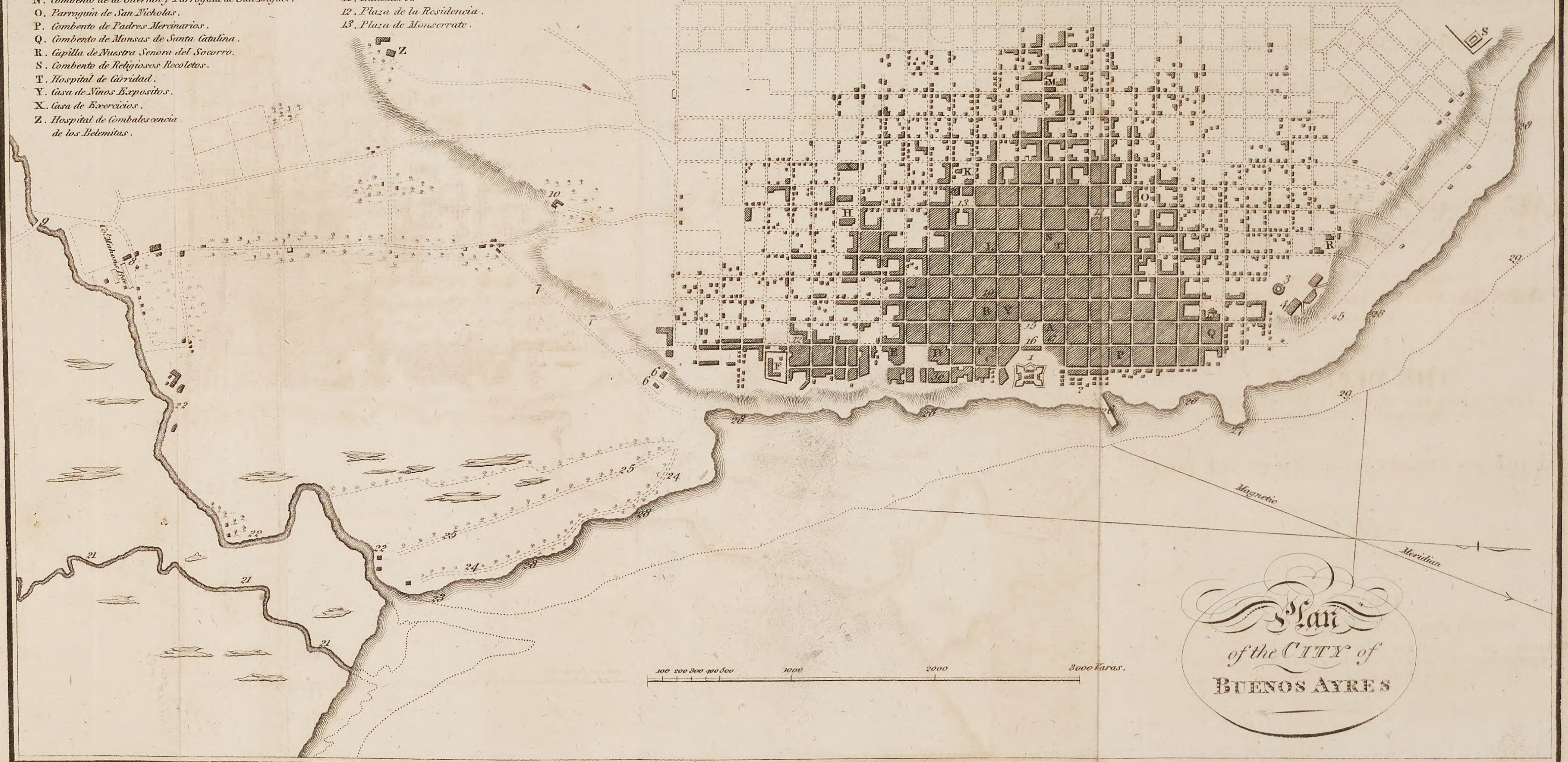


- A. Cathedral.
- B. Collegio.
- C. Convento di San Francisco.
- D. Convento di Santo Domingo.
- E. Hospital y Convento di Religiosos Belemitas.
- F. Polasia y Edificios de la Residencia.
- G. Capilla de Santa Lucia (camino de Barracas).
- H. Parroquia de Nuestra Señora de la Concepcion.
- K. Parroquia de Nuestra Señora de Monserrate.
- L. Convento de San Juan Monjas Capuchinas.
- M. Parroquia de Nuestra Señora de la Piedad.
- N. Convento de la Guertan y Parroquia de San Miguel.
- O. Parroquia de San Nicholas.
- P. Convento de Padres Mercurarios.
- Q. Convento de Monjas de Santa Catalina.
- R. Capilla de Nuestra Señora del Socorro.
- S. Convento de Religiosos Recoletos.
- T. Hospital de Caridad.
- Y. Casa de Niños Expositos.
- X. Casa de Exercicios.
- Z. Hospital de Combatescencia de los Belemitas.

- 1. Fuerte que incluye el Palacio del t^l 1^{mo} Señor Virrey la Real Audiencia Casas R^{as} y Sala de Armas.
- 2. Alameda y teatro.
- 3. Plaza de Toros.
- 4. Parque y Cuartel de Artilleria.
- 5. Bateria de la Escuela practica de Artilleria.
- 6. Almozen de Polvora y Cuerpo de Guardia.
- 7. Caminos que ban a Barrancas.
- 8. Barrancas.
- 9. Puente de Galbes y Camino de la Encarnacion de Barragan.
- 10. Chacara y Hornos de la drillo de Santo Domingo.
- 11. Inataderos.
- 12. Plaza de la Residencia.
- 13. Plaza de Monserrate.

- 14. Plaza de San Nicholas.
- 15. Plaza Mayor (Casa Consistorial y Cance).
- 16. Recoba.
- 17. Palacio Episcopal.
- 18. Cuartel de Dragonas de Buenos Ayres.
- 19. Cuartel de Regimiento Fijo de Infanteria de Id.
- 20. Cuartel de Milicias de Caballo Ligera de Id.
- 21. Arroyo de Masiel.
- 22. Riachuelo consu desembocadura.
- 23. Giro y desembocadura del Riachuelo hara 20 anos que segado su maior parti como se demuestra.

- 24. Camino de la boca del Riachuelo que seba comocagua.
- 25. Otro camino ancho que no esta en uso.
- 26. Muerte Vecien echo y arruinado.
- 27. Poscas que albanzan al agua.
- 28. Linea de Pleas Aguas Regubaras.
- 29. Linea de Bases Aguas Ordinarias.
- 30. Casa de Aduana.



THE
PROCEEDINGS
OF A
GENERAL COURT MARTIAL,

HELD AT CHELSEA HOSPITAL,

ON THURSDAY, JANUARY 28, 1808,

And continued, by Adjournment, till TUESDAY, MARCH 15,

FOR THE TRIAL OF

LIEUT. GEN. WHITELOCKE,

Late Commander-in-Chief of the Forces in South America.

TAKEN IN SHORT-HAND BY MR. GURNEY.

WITH

THE DEFENCE,

COPIED FROM THE ORIGINAL, BY PERMISSION OF
GENERAL WHITELOCKE;

ALSO

ALL THE DOCUMENTS PRODUCED ON THE TRIAL.

VOL. II.

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1808.



C. SQUIRE, Printer,
Furnival's-Inn Court,

CONTENTS

OF

VOLUME THE SECOND.

NINETEENTH DAY—TUESDAY, FEB. 23.

Major General GOWER's examination continued.—An objection started by Gen. Whitelocke to a particular question by the Judge Advocate	439
Cross-examined by Gen. Whitelocke	443
SIR SAMUEL ACHMUTY called, and examined on the second division of the charges.	450
Describes the operations of his brigade during the attack upon the town; with his reasons at length for acceding to the treaty	450—456
Examined on various particular parts of his narrative	456—458

TWENTIETH DAY—WEDNESDAY, FEB. 24.

SIR SAMUEL ACHMUTY's examination continued.	459—464
The objections of Gen. Whitelocke, to putting questions of opinion; in support of which objection he instances the case of Admiral Keppel's trial, wherein Lord Mulgrave refused to answer questions of opinion	464—470
Extract from the trial of Admiral Keppel, containing the passage alluded to	470—475
The examination of Sir S. ACHMUTY concluded.	475—481
LIEUTENANT COLONEL NUGENT called in again.—States the operations of his regiment on the 5th of July	482
CAPTAIN COSTLEY examined	483
MAJOR KING called in.—Relates the operations of the regiment under his command on the 5th of July.	484

TWENTY-FIRST DAY—THURSDAY, FEB. 25.

Colonel KING called in again, and finishes his narrative	486—488
LIEUTENANT COLONEL DAVIE examined in respect to the ope-	

CONTENTS.

	Page
rations of the corps under his command on the day of attack	488
BRIGADIER GENERAL LUMLEY examined on the second divi- sion of the charges	490
Relates the operations of the right wing, which he commanded, during the attack, till their junction with Sir Samuel Achmuty	490—495
Examined by the Court on various important topics.	495—497
LIEUTENANT COLONELS BURNE and DUFF severally examined as to the movements of their respective divisions, during the attack	498—504
MAJOR VANDELEUR examined.—States the operations of the left wing of the 88th regiment, under his command, dur- ing the attack	505

TWENTY-SECOND DAY—FRIDAY, FEB. 26.

General LUMLEY came into Court to correct his evidence.	507
Major VANDELEUR called in again, and concludes his rela- tion	508
BRIGADIER GENERAL CRAUFURD called in, and examined on the second division of the charges.—Continues his narra- tive from the period at which it was broken off on his for- mer examination, till the signature of the treaty ; in which is related, the various operations of his brigade during the attack, till his surrender and agreement to the treaty	511—520
Examined by the Court on many important particulars	530—534

TWENTY-THIRD DAY—SATURDAY, FEB. 27.

General CRAUFURD's examination by the Court con- cluded	535—544
LIEUTENANT COLONEL PACK called in.—States the operations of that part of the left wing, under his command, during the attack on the 5th	545—550
Examined with respect to his being consulted by Gen. White- locke upon the plan of operations against the town, &c.	551
Cross-examined by Gen. Whitelocke	556

TWENTY-FOURTH DAY—MONDAY, FEB. 29.

Lieutenant Colonel PACK's examination concluded.	558
LIEUTENANT COLONEL CADOGAN called in.—Describes the operations of the division, under his command, during the attack	568
LIEUTENANT COLONELS GUARD and NICHOLLS severally ex-	

CONTENTS.

	Page
amined respecting the operations of the 45th regiment, on the 5th of July, and other particulars	571—588
ADMIRAL MURRAY called in, and examined on the second division of the charges	584

TWENTY-FIFTH DAY—TUESDAY, MARCH 1.

Admiral MURRAY's examination continued.—Recital of a letter from General Whitelocke to Admiral Murray, with the conduct pursued by Admiral Murray in consequence.....	590—593
Cross-examined by Gen. Whitelocke	594
CAPTAIN DAVENPORT called in.—States the operations of the 6th dragoon guards during the day of attack	598—601
CAPTAIN FRASER called in again.—Continues to relate the orders and subsequent arrangements of the artillery	602
Examined as to the manner in which Gen. Whitelocke employed himself during the 5th of July	605—613

TWENTY-SIXTH DAY—THURSDAY, MARCH 3.

CAPTAIN FRAZER's examination continued.—States what passed during the night of the 5th, and morning of the 6th, relative to the conduct of Gen. Whitelocke	614
Examined respecting the erection of batteries against the town	617
CAPTAIN SQUIRE examined on the same subject	619
LIEUTENANT COLONEL TORRENS examined relative to the employment of Gen. Whitelocke during the 5th of July	620—624
Cross-examined by Gen. Whitelocke	625
COLONEL MAHON called in.—Produces the return of cavalry appointments cast at Monte Video, alluded to in his former evidence	630
Continues to describe the movements of the corps under his command	631—633
CAPTAIN FORSTER called in.—States the orders he received from Gen. Whitelocke on the 5th, relative to opening a communication with the attacking columns, and the measures pursued in consequence of those orders.....	634—638

TWENTY-SEVENTH DAY—FRIDAY, MARCH 4.

Captain FORSTER's examination continued	639
Cross-examined by Gen. Whitelocke.....	641

CONTENTS.

	Page
Examined by the Court as to the possibility of opening a communication with the attacking columns	647—649
CAPTAIN WHITTINGHAM called in.—Examined on various points relating to opening a communication, and co-operating with the attacking columns	653—654
LIEUTENANT COLONEL BOURKE called in.—States the occurrences from the morning of the 5th of July, to the final embarkation of the troops; including the personal exertions of Gen. Whitelocke in support of those corps engaged in the attack of the 5th, and the movements of the troops that constituted the reserve, and remained with Gen. Whitelocke during that day.	656—662

TWENTY-EIGHTH DAY—SATURDAY, MARCH 5.

On account of the indisposition of the Judge Advocate, the Court adjourned	663
--	-----

TWENTY-NINTH DAY—MONDAY, MARCH 7.

Lieutenant Colonel Bourke came in to correct his evidence . .	664
LIEUTENANT COLONEL BRADFORD called in, and examined precisely on the same particulars as the last witness	666—670
States the effective force of the army after the attack on the town	671
Examined on various subjects.	672—676
Conclusion of the evidence for the prosecution	677

THIRTIETH DAY—MONDAY, MARCH 14.

GENERAL WHITELOCKE'S DEFENCE	679—763
<i>Letters, Orders, &c. referred to by General Whitelocke, and read as part of his Defence:</i>	
Letter from Sir S. Achmuty to the Right Hon. William Windham, representing the state of South America, after the capture of Monte Video.	764
Letter from Sir S. Achmuty, in continuation of the same subject.	766
Letter from Sir S. Achmuty to the High Court of Audienza, at Buenos Ayres	769
Letter from the High Court of Audienza, in answer to Sir S. Achmuty	770
Letter from General Liniers to Sir S. Achmuty and Admiral Stirling	772
Letter from the Cabildo at Buenos Ayres	773

CONTENTS.

Copies of various General Orders issued at Monte Video.....	Page 774
---	-------------

THIRTY-FIRST DAY—TUESDAY, March 15.

Various General Orders issued after the landing at Ensanada de Barragon	778
LIEUTENANT COLONEL BOURKE called in.—Examined as to his knowledge of General Gower's hand-writing; when several letters from Gen. Gower to Gen. Whitelocke were read	779
Examined respecting the route of the different divisions of the army on the 2d of July; the orders given by Gen. Whitelocke to Mr. Bullock, relative to the landing, and the measures adopted by General Whitelocke for provisioning, the army.....	783—786
Cross-examined by the Court on the above subjects	786
Letter from Sir A. Williamson to the Right Hon. Henry Dundas, respecting Gen. Whitelocke's conduct at the attack on Port au Prince in 1794.....	788
Extract of a letter from the Right Hon. Henry Dundas to Sir A. Williamson, in answer to the above	790
Extract of a letter from the Right Hon. Henry Dundas to Gen. Whyte, at St. Domingo.....	790
Letter from Major Gen. Spencer to Gen. Whitelocke, respecting his services in St. Domingo, inclosing one from the officers who served under him	791
LIEUTENANT GENERAL WHYTE called in.—Examined as to his opinion of Gen. Whitelocke, as an officer, while under his command	792
Speech of Gen. WHITELOCKE on closing his Defence	793
JUDGE ADVOCATE'S Speech in reply	ib.

CONTENTS

Copies of various General Orders issued at Mobile, Ala.

THIRTY-FIRST DAY—TUESDAY, March 15

Various General Orders issued after the landing at Mobile

Barataria

Interference of General Boudinot, called the "Boudinot" in to
his knowledge of General Boudinot's presence; when
several letters from Gen. Boudinot to Gen. Williams were
sent

Result

Examined reports of the various officers of the army

Army on the 15th of July; the result of the examination

Looked to the future, relative to the landing, and the
measures adopted by General Williams for the future

The army

Order examined by the Court on the 15th of July

Letter from Gen. A. Williams to the Major, 15th July

His report on Gen. Williams' report of the landing

On the 15th of July

Part of a letter from the Major, 15th July, to the
Gen.

A. Williams, in answer to the above

Part of a letter from the Major, 15th July, to the
Gen.

While at the landing

Is the same as Gen. Williams' report to the Major, 15th July

In the service of the Major, 15th July, and from the
Gen.

Persons who were with the Major, 15th July

Part of a letter from Gen. Williams to the Major, 15th July

The opinion of Gen. Williams, 15th July, relative to the
landing

his command

Report of Gen. Williams on the landing at Mobile, 15th July

Index

NINETEENTH DAY.

TUESDAY, FEBRUARY 23, 1808.

Major General GOWER called in.

Judge Advocate.—I must now state, that there was part of an answer given by Major General Gower, which escaped my notice; if it had not, I should have thought it my duty to put a question upon it. The conclusion of the answer to which I allude, is this: “I would request the indulgence of the Court, merely to state, (this appearing as much my trial as Lieutenant General Whitelocke’s,) whether I should state any circumstances that caused so little communication?” The question I wish to put upon that is, whether the circumstances that caused so little communication arose from any thing General Whitelocke had said or done?—If the answer is in the negative, I shall stop there: if it is on the contrary, I may think it essential to this inquiry, which is into the conduct of Lieutenant General Whitelocke, that those circumstances should be stated.

Lieutenant Gen. Whitelocke objected to the question.

The objection read, as follows.

“General Whitelocke certainly would not object to the Judge Advocate asking any question he might have forgotten to put upon subjects relating to military operations; although he cannot but observe, that the examination of the Judge Advocate was closed, and a question for cross-examination in the hand of the President, which was only returned on account of the hour. General Whitelocke requests the Court to advert to evidence already given; in which he cannot but think, that sub-

jects of a private, and almost personal nature, as between himself and General Gower, have been gone into, and entreats, therefore, the attention of the Court to them. He again begs leave to say, that he wishes to exclude no evidence connected with the case, as relating to military arrangements; but merely puts himself under the direction and protection of the Court on this subject. He only begs leave to suggest, whether such examination is proper with regard to General Gower."

Judge Advocate.—After what I have already stated, I am not aware that any thing contained in that paper makes it necessary for me to go at length into a vindication of the question which I was about to put to Major General Gower. I shall merely observe, that, after the evidence is closed on the part of the prosecution, it is for the person who is put upon his defence to cross-examine the witnesses; my reason for putting the question at this time was, because I thought it more fair to Lieutenant General Whitelocke to put it now, than to put it after his cross-examination was concluded, and when he would not have been able to controvert any facts by a cross-examination. I believe it to be the practice of Courts Martial, as it is the practice of every Court of Justice, without exception, in this country; that, if it should so happen that an important question appears not to have been asked by those who conduct the prosecution after their evidence is closed, that question is handed up to the Judge, and the Judge, as I have always heard, and, in my own experience, have always seen, has not made the slightest objection to put the question to the witness; therefore, it is immaterial, whether I put the question out of my own mouth, or hand it to Sir William Meadows; the question is, whether the Court can decide upon the case, without having all the legal evidence, which the person (I unworthily in this instance)

who conducts the prosecution thinks material to the case. Now, then, it is for the Court to consider, whether, after the answer which has been given by Major General Gower, and which I have had the honour of reading, it is not important to know what those circumstances are that he has alluded to. If it should turn out, that, in consequence of the answer, the circumstances to which he alluded, are circumstances unconnected with Lieutenant General Whitelocke, then I conceive the Court is precluded from going one step further upon that question: but, if it should appear, that the circumstances to which he alludes, are circumstances connected, as I before stated, with any thing that Lieutenant General Whitelocke has said or done, then I conceive it may be a most important part of this prosecution. It is, under those circumstances, for the Court to decide, whether the question shall be put, or not, by me; or, whether it shall be put by Sir William Meadows.

There is one part of that paper which I ought to allude to; I mean that part which states that the answer may not apply: the words are, "to military operations." I do not know whether the answer will apply to military operations at all: I beg it to be understood, that this charge does not apply to military matters merely. From the words of it, it may apply to various other points besides military operations.

Court cleared.

Court resumed.

Judge Advocate.—Q. Having stated that there were circumstances which caused so little communication between Lieutenant General Whitelocke and yourself during the 5th of July; did, or did not, those circumstances arise from any thing which Lieutenant General Whitelocke said or did?

A. From what Lieutenant General Whitelocke had said.

Q. State, then, what it was that Lieutenant General Whitelocke had said, which caused so little communication between him and you, the second in command. I hardly think it necessary; but perhaps I am bound to do it, and therefore Major General Gower will believe I do it because I am obliged to inform him, that if the answer tends to implicate himself in any degree, he is at liberty to waive the answer?

A. Having consulted me on a specific point, on which my opinion differed from his, when he demanded it, he had stated that I was throwing cold water on every thing he did; but he would put me to the test by a question, which was, whether all his acts, as an officer, in that country, were not good?—I replied, that the inferiority of my situation prevented me from presuming to give an opinion of a Lieutenant General holding a commission as commander of the forces. He then said, that he considered me as his declared enemy, and that he would supersede me in the situation that I held as a staff-officer in that army. After a reprimand so severe, I did not feel myself at liberty to propose any thing, or to act otherwise than in direct obedience to such commands as I might receive.

Q. When did that conversation take place?

A. On the 4th.

Q. About what hour?

A. It was at the period that the Lieutenant General spoke to me relative to the summoning of the town; I do not really recollect the hour.

Q. Have you, or have you not, any thing else to state in answer to the last question, with regard to any thing Lieutenant General Whitelocke said or did on the subject?

A. There was another part of the conversation which I considered as private: this, which I considered as a public transaction, I thought it my duty to state. The other was respecting the opi-

nion of a minister of this country relative to myself, and which I do not think it necessary to state.

Q. Have you stated all that you referred to in your answer?

A. Yes.

Cross-examined by Lieutenant General Whitelocke.

Q. Do you not recollect your Brigade Major, Lieutenant Costley, being sent to endeavour to go to the right flank, and being unable to make his way, previous to Captain Whittingham being sent to the left?

A. I do not recollect it.

Q. Were not the carabiniers of the 9th light dragoons ordered to advance about nine o'clock, to endeavour to effect a communication with the centre division of the attack, and where were the carabiniers of the 9th light dragoons at the time of receiving this order?

A. I do not know that such an order was given.

Q. There appears in the evidence some little confusion as to the different parts of the reserve; Major General Gower, therefore, is requested to state the situation of the different regiments and detachments composing the reserve on the morning of the 5th, and whether subsequent alterations of their position occurred in the course of the day?

A. The carabiniers were ordered, to the best of my recollection, to take up the ground occupied by the picquets of the light brigade when they moved off. Four troops of the 9th light dragoons, dismounted, were ordered to align themselves on the right of the carabiniers; the other four troops of the 9th were placed on the high ground near the Coral, the company of the 88th regiment re-

mained to cover the hospital and head-quarters; the detachment of the 17th light dragoons, attached to the Commissary, remained there also, as it was the depôt of provision; the small detachments of corps that were left to guard the packs, remained on the spots where their commanding officers had deposited them, near their respective regimental positions; the artillery remained near the Coral; I really do not know where the mounted dragoons were, they were so few in number; I do not know of any change, except that caused by the order to change, which I have before described; the retreat which the carabiniers were obliged to make in consequence of the superiority of the enemy's fire, but which eventually left them something in advance of the position from whence they had moved in obedience to that order.

Q. Observing that the orders for attack have been given in evidence, it may be proper to refer Major General Gower to them for the first position?

A. A period of eight months has elapsed, and I may have made a mistake.

Orders read.

Major General Gower.—May I take the liberty of remarking, that, from my recollection of the ground, the description of the carabiniers must be nearly correct, and the 9th might have been upon the left of the carabiniers instead of the right. I will say I believe that the detachment of the 9th was on the left, instead of the right of the carabiniers. As to the other description, I believe it to be nearly correct.

Q. Was not a large proportion of the 9th light dragoons with the carabiniers in the attack to which you have alluded?

A. Yes, such part as was advanced.

Q. Had not all firing ceased in the town before

the evening closed ; and were not the riflemen seen on the top of a church, near the centre of the town, a little before the end of the day ?

A. All firing had ceased at that time ; and I heard a report made to Lieutenant General White-locke, that the riflemen were seen in that position.

Q. State the distance of the head-quarters from the ground on which he had been during the day, and whether the head-quarters were not so situated as to afford facility of communication or acting, as occasion might require.

A. Between four and five hundred yards ; and I saw no additional difficulty in communicating with, or acting from, head-quarters by day.

Q. Was it possible, considering the nature of the environs of the town, to attempt to move after dark, or to send any officer to procure information, or even any communication, after the evening closed in, or during the night ?

A. The whole of the environs were formed into squares, the fences of which were one hundred and forty yards each ; the multiplicity of roads, there being one round each square, would certainly have rendered it a mere matter of accident, if an officer should reach any given point to which he was ordered by night.

Q. Had not the head-quarters constantly remained at White's House from the morning of the 3d ; and was not the reserve, in the orders of the 4th, stationed in the front of it, thereby indicating its continuance of being head-quarters ?

A. Yes. I understand the question is, as to the locality of the head-quarters, whether the locality of the head-quarters presented any other difficulty than any other position in the neighbourhood ? Any additional difficulty is what I understand.

A Member.—If the country is extremely difficult you are obliged to go round in the day-time,

certainly a distance of five or six hundred yards makes it more difficult. It will take more time to go over five or six hundred yards, than if you had not that distance to go. If a country is in itself extremely difficult, why increase the difficulty?

Lieutenant General Whitelocke.—Q. Was there not near to head-quarters, in the front, a more considerable opening than in the neighbourhood; and I beg you to refer to the map?

A. The square immediately in front of head-quarters, though marked out, was not either cultivated or fenced; and the whole of the front of the Coral, the entrance into the street, was also open. I beg leave to state what I conceive the environs of Buenos Ayres to have been. The whole of Buenos Ayres is laid out in streets nearly parallel, and intersected at right angles at one hundred and forty yards from each other: a considerable part in the vicinity of the town had been marked out in the same way, which was the cause of the numberless roads that lead into the town.

A Member.—Q. Was the position of the light brigade, in the rear of which the commander of the forces stood, in a line, or nearly so, with the rest of the army?

A. It was.

Q. Then how far in the rear of that position was the position of Mr. White's House, the head-quarters?

A. Between four and five hundred yards.

Q. Having stated that the squares which were not built upon were cultivated, in what manner were they cultivated?

A. Generally as gardens or orchards.

Q. General Whitelocke having been informed that the enemy intended to defend the town by

barricading the streets and occupying the tops of the houses, do you know the reasons that induced General Whitelocke to order the troops to march to the attack with unloaded arms?

A. I do not.

Q. Do you know what number of tools were delivered to the troops for the purpose of breaking open houses, or for breaking open the barricadoes of the streets?

A. I do not think they were distributed by the Deputy Quarter Master General, Lieutenant Colonel Bourke.

Q. At the time the message was brought from Sir Samuel Achmuty, was it under consideration between General Whitelocke and you, whether either of you should go to Sir Samuel Achmuty's post, to judge upon the spot whether it would be advisable to attempt any further operations with the corps under Sir Samuel's command?

A. Not that I recollect.

Q. Were any, and what wounded brought to Mr. White's House in the afternoon of the 5th, or during the time Lieutenant General Whitelocke was there on the night of the 5th?

A. Several men of the carabiniers and 9th dragoons, and a few of the artillery.

Q. Whether there was any, and what period, during the 5th, when the station of Lieutenant General Whitelocke might have been changed to advantage?

A. I think it might after the middle of the day; for by going to the Plaza del Tauros, although you increased your distance from the right columns and Colonel Mahon's, it afforded an additional possibility of communicating by water.

Q. Having given your opinion, that a bombardment of the town would not have had any effect, state your reason for such; supposing, whether it

arose from the experiment made with the twenty-four-pounders at Monte Video on the house or houses there?

A. I believe I did not say it would have no effect: but, to the question, I will answer, yes, in a great degree.

Q. Was you acquainted, on the morning of the 6th, that the Admiral had embarked the heavy ordnance, ready for landing, and that the gun-boats would also be ready to cover the landing?

A. After my arrival at the Plaza del Tauros, I saw the gun-boats close in shore; I did not know of any other ordnance ready to land, except the one twenty-four-pounder which I saw on the beach; it was landed under cover of the high ground of the Plaza, and, therefore, did not want any assistance or cover from the gun-boats.

Q. At what period of the day, on the 6th of July, was it communicated to Lieutenant General Whitelocke, that Major General Craufurd and Lieutenant Colonel Duff had surrendered to the enemy?

A. I think it was asserted in General Liniers' letter; I did not feel that the fact was ascertained till I heard it, I believe, from Brigadier General Sir Samuel Achmuty, and that he had derived his information from Captain Carrol of the 88th regiment, who had come out with a flag of truce to that post.

Q. Having been informed, and finding the information true, that the flat roofs of the houses were occupied to the very great annoyance of the troops, even at the commencement of the attack and entrance into the streets, why was it not attempted to set fire to such houses, or was such a measure ever suggested?

A. I believe it impossible to set fire to houses constructed as they were.

Q. Was Lieutenant General Whitelocke acquainted with the situation of Colonel Mahon's corps, at the time when he agreed to open a negotiation for a treaty with the Spanish commander?

A. I am not sure. I think he was.

Q. What was the distance from the Plaza del Tauros to the water side where the twenty-four pounder was landed; and had you not the communication from the Plaza del Tauros then with the shore?

A. About three hundred yards. The communication there was perfectly open.

Q. Where was the main body of the army, and how stationed, on the evening of the 6th of July; and at what distance from the Plaza del Tauros?

A. I had not an opportunity of observing, being at that time in the fort with a flag of truce.

Q. Do you know whether any Spanish army was in the country, that in the course of a few days might have come to the assistance of Buenos Ayres?

A. I have understood that the whole population in that vicinity, not engaged in the immediate defence of the town, was assembled to assist them.

Q. Might not the roads leading from the country to Buenos Ayres, have been so occupied by the British troops, as to have prevented any supply of provision being brought to the town?

A. It was impossible with the number of British troops present before Buenos Ayres, from the extent of the town, to prevent the introduction of any supplies which they might wish.

Q. How many main roads were there to your knowledge leading from the country into the town?

A. The number is very considerable for some distance from the squares, which I have before described. There are four or five which I know from the point in the rear of White's house, between that and the Chieulo. After the squares cease, how many

there are in the rear of the neighbourhood of Reduction, I cannot so exactly tell.

Q. Was not the position of the army on the 6th of July, with the ordnance intended to have been landed that day, by order of Admiral Murray, such as to have resisted every effort of the Spanish forces?

A. I do not know what ordnance Admiral Murray had directed to be landed. I do not think on the 6th of July, that the enemy could have made any impression of consequence on the British army.

Q. Is the court to understand that you was made acquainted with the actual state and situation of Colonel Mahon's corps, when you was first sent to treat with the enemy?

A. I do not exactly recollect whether Captain Whittingham had returned at that time or not, I think he had, and that he had reported that Colonel Mahon was on his march towards the Plaza del Tauros.

Brigadier General Sir SAMUEL ACHMUTY called.

The Third and Fourth Charges read.

Judge Advocate.---Sir Samuel Achmuty having broken off his narrative at the close of the 4th of July, he will now be so good as to continue the detail, to the best of his memory, of the military operations of the 5th of July, and of every thing that passed relative to those charges up to the time of the signature of the treaty?

Sir Samuel Achmuty.---Before the appointed hour for the attack, I visited the different columns of my brigade, and observed that they were posted as directed the evening before by the Deputy Quarter Master General. I then took my station with the right wing of the 87th. The centre regiment of my brigade having been directed to detach the 38th regiment, which was the only corps that was not divided.

On the signal being made, (a cannonade from the centre) we advanced without any opposition between one and two miles. By the sketch of the town, which I received from head quarters, marking the routes of the different columns, there were two streets between the left wing of the 87th regiment and the Plaza del Tauros; I consequently expected to have that place considerably to my left. The day had not yet sufficiently dawned to see objects at any distance, nor had a shot been fired at us, when we were suddenly assailed by a discharge of grape from one or two guns; the latter I believe directly in our front. Though the fire was extremely destructive, particularly on the grenadiers, the column still pushed on, when a very heavy fire of musquetry opened upon us from a building, which I afterwards found was the Plaza del Tauros, and which contained about one thousand men. The column was some time exposed to this fire, still desirous to advance. The rear of the column now commenced a firing, which made the situation of those in front more dangerous: at length it began to waver and to fall back. At this moment, Lieutenant Colonel Butler and the officers, (all of whom behaved with the utmost gallantry) exerted themselves to stop the men, and to induce them to follow me in an attempt to get into a garden on the right of the street, in which they succeeded, and we penetrated into the next parallel street to the right of the one we had left. In advancing along this street, we found a deep water-course running through the centre of it, which fortunately sheltered us from the fire of the Tauros, which was still very heavy. This street lead us to the river, where I occupied a large house, and collected the remains of my column, as well as the left column of the regiment, which had also been led to the front of the Plaza del Tauros, which had suffered equally, if not more severely than the right; had behaved with equal gallantry; and had, finally, been obliged to pursue the

same course, and to join me. During this service the regiment killed numbers of the enemy, and took about one hundred prisoners, with three field-pieces. I now saw the colours of the 5th regiment planted on the convent of St. Catalina, which, leaving me secure on my right, I sent detached parties in my rear to clear the houses on the heights, which the enemy were firing from, and which looked down upon my post. During this service I heard a firing on my left, which convinced me that the 38th was approaching, and soon afterwards the heights in my rear were evacuated by the enemy. A communication with the 38th was now practicable, and I found that gallant and highly distinguished corps, under Major Nugent, well advanced in the attack of the Tauros. When I joined them he was in possession of most of the enemy's artillery, and all their stores and buildings except the Tauros itself, which still kept up a very heavy fire; but Major Nugent had brought up a twelve-pounder, sheltered by the angle of a house, to bear close upon it; and detachments from the 87th regiment invested it on the other side. Finding that the place must immediately surrender, desirous that Major Nugent should have the honor of finishing what he had so judiciously began, and anxious to examine the post occupied by the 5th regiment, I left the Tauros; immediately after which, about nine o'clock, it surrendered; on which I returned and ordered the 87th into it. After making a few hasty arrangements, I proceeded through the streets to the convent of St. Catalina, and joined the right wing of the 5th regiment, the left wing of that corps was advanced more towards the 36th regiment. Soon after my arrival, an officer came to me from Brigadier General Lumley, acquainting me that the enemy were in force near him; that the left wing of the 88th regiment, and he believed the right wing, were prisoners; and that he was desirous of receiving any orders I might give him. I recommended to him, if he had no orders to the con-

trary from a superior officer, to remain at his post as long as he could with safety ; but, if hard pressed, to fall back on the 5th regiment, to whom I should give orders to place themselves under his command. I then acquainted the commanding officer of the 5th regiment, that I should return to the Tauros, to put that place in a state of defence, and should General Lumley join in with the 36th regiment, to inform the general that I wished the two regiments, if hard pressed by the enemy, and in danger of being surrounded, to join me at the Tauros, delaying it as long as possible, that I might have time to make arrangements for its security. I found some difficulty in returning to the Tauros, scattered parties of the enemy being in the streets and firing from the houses. Early in the afternoon, General Lumley joined in with the 5th and 36th regiments, having met with much opposition from the enemy in retreating from the posts they occupied, and which he considered as no longer tenable. During all this time, I was ignorant of the situation or intentions of the General, nor could I venture with safety, as I had no cavalry, to detach a small party to report to him ; at length, about four o'clock, Captain Whittingham came to me from the head quarters : he acquainted me that the General, and General Gower, were still at the ground we before occupied ; that the General was ignorant of the situation of any of the columns, and had sent him to procure what information he could from the left ; after detailing to him the occurrences of the day, as far as I was acquainted with them, I desired him to assure the General, that I was under no apprehensions for the safety of the post ; that I had opened a communication with the shipping, but that I was in want of an artillery officer, and some men of that corps. I recommended to him, if the events of the right of the town would permit it, to join me, and make my post head-quarters. Early in the evening I received a second message from the General, direct-

ing me to defend the post during the night, assuring me, that he would either see me or communicate with me the next morning, and informing me that he had sent sixteen artillery men more to join us : there was no commissioned officer attached to these men. The next morning, a letter from General Liniers, addressed to the Commander of the forces, was received at the out-posts, and a message from that General, acquainting me that he should abstain from hostilities until twelve o'clock, waiting the General's answer, provided hostilities ceased at our different posts. In reply, I informed him I should send him a letter, with a flag, to General Whitelocke, and should abstain from firing on the town, provided I remained unmolested ; but that I had no authority over the other posts of the army. About noon, the General and General Gower came to the Tauros, and the General was pleased to shew me the communication from General Liniers, and confidentially to ask my opinion about acceding to the terms contained in it. When I reflected on the unpleasant situation in which the army was placed ; that all the light infantry, and all the riflemen were prisoners ; that upwards of one-half the troops who were engaged, were either killed, wounded, or taken, (exclusive of the 45th regiment, who were shut up by the enemy) ; that the remainder were fatigued, without confidence, and exposed at the most inclement season of the year, without blankets, great coats, or a change of necessaries, which in that climate must be productive of great sickness ; when I reflected on the scattered state of the troops, and the probability that Colonel Mahon's detachment, the only untouched and unfatigued part of the army, or the troops left at the Miserere by the General, might be separately attacked by the whole force of the enemy ; when I adverted to the difficulty of procuring ordnance, stores, and provisions from the fleet, as none of the ships could approach within seven miles of the shore, and the

river at that season is very tumultuous, and frequently not navigable ; when I considered the loss there was every probability we should sustain, if hostilities should recommence, from a people elated with their brilliant success ; the difficulty of either burning or destroying the town, with our artillery, where the houses are built of brick, with terrace roofs, no wood being employed in their construction, except the beams, which were covered over with terrace, and the bricks so soft that the shot penetrated without shaking them ; when I adverted to the difficulty of making a retreat, that we must leave four thousand of our best troops in their possession, and to the danger that must have succeeded after the capture of the place, (for our numbers would then have been totally unequal to keep it) ; when I turned to the situation in which Monte Video was left, with a garrison unequal to maintain it, without turning out all the inhabitants ; without any hopes of a reinforcement, (for the troops that were expected from England, were supposed to have borne away to the West Indies) ; when I weighed all these circumstances, and was persuaded that Monte Video could only be maintained, supposing the army to have effected their retreat there, by provision from the ships, for the country would certainly have been shut up from us ; and when I called to mind the declaration of his Majesty's Ministers, in their instructions to General Whitelocke, that the possession of the country could not be an object, unless it could be maintained by a force, which, from experience, I know was very insufficient for that purpose ; I had no hesitation in saying, that if better terms could not be obtained, and a period of six months given for the evacuation of Monte Video, with a facility to the merchants to dispose of their goods, in my opinion they should be acceded to. The General immediately called to General Gower, and acquainted him that I was of the same opinion with them both ; on which General Gower observed to

me, that he had objected to any answer being returned, until the Plaza del Tauros had been examined; but finding that the possession of it by numerous troops, insured or even greatly facilitated the capture of the place, he thought it would be prudent to enter into a negociation. General Gower was then sent into the town, and returned in the evening, saying, that the period of four months, for the evacuation of Monte Video, was positively insisted on, and he believed would not be departed from. The General then determined to accept the terms, and a treaty was concluded; a copy of which I first saw on my return to England.

Sir Samuel Achmuty then put in the plan which he had adverted to.

Judge Advocate. Q.—Do you know the number of entrenching tools, which were in the possession of your column on the morning of the fifth?

A. I do not know of any.

Q. Can you state what number of artillery, or artillery men, were attached to your column on the morning of the 5th, or how the soldiers of that corps were employed?

A. I had neither artillery nor artillery men with me, nor am I acquainted how they were employed, further than that a cannonade in the centre was the signal to advance.

Q. You stated, that having received the second message from Lieutenant General Whitelocke, in the in the course of the 5th, by whom was that second message conveyed?

A. The message was given me in a note from the General's Secretary, and it was conveyed, if I recollect right, by a Quarter Master of Dragoons.

Q. Having stated that that second message was received by you, in consequence of the answer and the report which you made to Lieutenant General Whitelocke, by Captain Whittingham, will you state as far as your memory enables you, the interval that took place between Captain Whittingham leaving the Plaza and the second message that you received?

A. I should imagine about two hours, but I cannot say exactly.

Q. State as accurately as you can, the hour at which Captain Whittingham left the Plaza?

A. Captain Whittingham came to me about four o'clock, and certainly did not stay a quarter of an hour.

Q. Then if General Whitelocke had thought it expedient to comply with your recommendation, if events would permit him to join you, and to make the Plaza the head quarters, would he, or would he not, have reached the Plaza soon after six in the evening, upon the 5th?

A. I should think he might.

Q. Do you know with what escort the Quarter Master arrived at the Plaza del Tauros?

A. He had sixteen artillery men with him; I do not know what other escort he had, or whether any other.

Q. How could Colonel Mahon's corps, and the troops at the Coral, be attacked by the whole force of the enemy, while the British troops were in possession of Plaza del Tauros, and the Residencia the two flanks?

A. I neither heard the firing, nor did I know any thing of the attack made on the 88th regiment, which was close to me, nor on General Crauford's Brigade, both of which were much nearer to me than the troops under Colonel Mahon. The regiments which I had with me at the Tauros, had been so

scattered and destroyed, that I did not calculate upon more than one thousand two hundred men that night, a force very insufficient to detach from. The Residencia, I understood, was shut up.

Q. From whence did you derive your information, as to the Residencia being shut up in the course of the 6th?

A. I cannot call to mind how I first heard of the situation of the 45th, nor the exact time.

Adjourned.

TWENTIETH DAY.

WEDNESDAY, FEBRUARY 24, 1808.

Sir SAMUEL ACHMUTY called in.

Judge Advocate.—Before I proceed with the examination, I believe Sir Samuel Achmuty wishes to correct some part of the evidence he gave yesterday.

Sir Samuel Achmuty.—I wish to mention to the Court, that I have been reminded since yesterday, that in the message I sent by Captain Whittingham to General Whitelocke, I observed to Captain Whittingham that my post was perfectly secure; I wished him not to hurry himself, but to see how the right of the army was placed before he came to Del Tauros. I don't remember the particular words; but I remember ordering him to tell the General not to hurry himself, as my post was perfectly secure.

The general order read.

Judge Advocate.—Were the directions in those orders complied with, as far as relates to the corps under your command.

A. I complied with them as far as circumstances would admit.

Q. Did the troops proceed with unloaded arms?

A. They were unloaded as we advanced.

Q. You have stated, that in your report to Lieutenant General Whitelocke, through Captain Whittingham, you desired to have sent to you an artillery officer and some artillery men; that sixteen artillery men were sent, but no officer: do you know why the Lieutenant General sent no officer with the men?

A. I do not recollect that any reason was given.

Q. You have stated, that among the reasons which induced you to enter into a negociation upon the terms proposed by General Liniers, one was, that the troops were fatigued and without confidence. Explain what you mean by the terms "without confidence?"

A. This Court may more easily conceive than I can express what was meant by the words "want of confidence." The troops were entirely without confidence at the time I am speaking of. Many of them were speaking in terms that were highly improper, but which it was impossible to go and take notice of. I mean want of confidence in their General.

Q. Had your knowledge of want of confidence of the troops in their General, expressed in the manner you have stated, a considerable share in deciding you to approve of the abandonment of the advantages the troops had gained at Buenos Ayres and the strong post of Monte Video?

A. It certainly had some share in inducing me to recommend giving up Monte Video. As to the advantages gained at Buenos Ayres, they were purchased so dearly that I could not consider them as such.

Q. If instead of that want of confidence you had found the troops full of confidence in their General on the 6th, and had yourself reason to think that confidence was well placed, should you have thought yourself justified in recommending the abandonment of Monte Video, under the circumstances in which the army was then placed?

A. I should have hesitated much, but I still think I should.

Q. If General Whitelocke's instructions were not to abandon Monte Video except in case of necessity, are you of opinion that that case of necessity had arrived, in a military view, to justify his abandonment of Monte Video on the 6th of July?

A. I think that necessity was arrived in a military view, provided better terms could not be obtained.

Q. Are you then of opinion that the British force at Buenos Ayres on the 6th of July, which the garrison left at Monte Video, were not, in a military point of view, sufficient to maintain the post of Monte Video?

A. A much less number of men would have maintained Monte Video, if they had been in garrison there.

Q. Are you then of opinion that that garrison could not have been supplied with provisions, either from the country or by means of the shipping?

A. I am very decidedly of opinion that the country would have been shut up from them, and that they must have been supplied from the shipping.

Q. Might not the garrison have been supplied with provisions by the means of the shipping?

A. I know not what resources the shipping had. I know from experience there would have been a difficulty in getting provisions from the Brazils, and probably from the Cape. I got some provisions both from the Brazils and the Cape. Immediately on taking Monte Video I opened the port to all neutrals bringing provisions, for I believe twelve months, and I have reason to believe that a supply would have come from America, of flour particularly.

Q. Then have you any reason to think that it would have been impracticable to have procured a supply of provisions for a garrison left at Monte Video, sufficient to secure it against the enemy, by means of the shipping?

A. I have already said there would be some difficulty and uncertainty about it; but I fairly and candidly own that I believe the garrison might have been supplied.

Q. If there were more than troops sufficient to garrison Monte Video, and that garrison might have been supplied with provisions, explain your meaning in stating that the necessity had arrived, in a military point of view, for abandoning Monte Video?

A. That garrison were before Buenos Ayres, and the difficulty, danger, and disgrace of retreating, in the face of a victorious enemy, and re-embarking, is what I mean by the necessity.

Q. Was the British force remaining on the 6th of July equal to combat and defeat any force which the Spaniards could have brought against it out of the town?

A. If they had met them fairly in the field, most certainly it was sufficient when united.

Q. Was the British force, after the junction of Colonel Mahon, adequate, in a military point of view, to the maintenance of the Plaza del Tauros?

A. Certainly it was.

Q. Would not the Spaniards meeting the British troops fairly in the field have been the necessary consequence of any attempt made by the Spanish General to interrupt any movements which Lieutenant General Whitelocke might have made for the purpose of retreat?

A. It certainly would not have been a necessary consequence.

Q. Would not Reduction have been a favourable post for the retreat of the army, making the Chieulo their line of defence and the Point of Quilmes the place of their re-embarkation.

A. If the army had been obliged to retreat, I should suppose that the Point of Quilmes, below the town, or the Conchas, would have been the proper place for re-embarkation.

Q. Would not the consequence of adopting either of those plans have been, either that the army would

have re-embarked without material loss, or that a general action must have taken place?

A. I am of opinion that they would have suffered very material loss, and I do not think that a general action would have taken place.

Q. Explain the grounds of that opinion?

A. The enemy would have had it in their power to have harrassed the troops without a general action, and probably to have attacked the remainder with advantage, after part of them had been embarked. I must observe to the Court, that the ships were seven miles from the land, nor could they come much nearer. The Court will permit me to observe, that they well know the difference between a corps of five thousand men well formed and equipped, and full of confidence, and a corps of five thousand men in the state which I have described.

Q. How near could the shipping, and particularly the gun-brigs, and gun-boats, have come to the shore at the Point of Quilmes?

A. I cannot particularly say. The gun-boats, I believe, could have come near the shore. The shipping, I think, must have laid down below at some distance.

Q. Could not the rear-guard have established itself on the banks of the Plata?

A Member.—I submit whether the course has not been to examine as to facts, and for the Court to apply those facts by their own professional knowledge and judgment of the service, and not to take the opinion of the evidence applied to the facts.

Judge Advocate.—In answer to the noble Lord, I must observe, that the question whether opinions were to be received or not, arose very early in this Court Martial; the Court then came to an unanimous resolution, that the opinions of general officers were to be asked, and their opinions have been asked during the whole course of the Court Martial.

Unquestionably at this moment I feel extremely anxious to obtain the opinion of an officer high in command, and equally high in character, upon all the points to which that opinion can apply. If the Court thinks it fit at this stage of the prosecution, to interrupt the proceeding, and to reject that course, it will then be to be considered whether they are not to erase from the minutes all the opinions that have been given. I own, that if opinions are to be taken, the course which I have now adopted appears to me to be important, namely, to ascertain what would have been the consequence if a different course had been taken, than that which was taken by Lieutenant General Whitelocke.

Court cleared.

Court resumed.

Judge Advocate.—Did the opinion which you gave upon the treaty include any approbation of the conduct which lead to the state of things that existed upon the 6th of July?

General Whitelocke handed to the President a written objection.

Judge Advocate.—The objection, or observation rather, which Lieutenant General Whitelocke makes to the question is this :

[“ Does the question apply only to Sir Samuel Achmuty’s opinion of the propriety of the place of attack, or any general opinion of conduct? If it is explained to mean only the first, Lieutenant General Whitelocke will not object. To the latter, he must request permission to object.”]

I have no difficulty in stating that, when I put the question, I meant it to apply generally to the conduct which Lieutenant General Whitelocke had pursued during the expedition, including, of course, the plan of attack, among other points. It will be fair

to state shortly the ground upon which I put the question. I put it to Sir Samuel Achmuty, because I have had reason to understand, from the conduct which the Court has pursued during this prosecution, that it does conceive the opinion of general officers of rank and experience, similar to that of Sir Samuel Achmuty's, grounded upon their local knowledge, may give assistance to the Court in forming their opinion upon the merits of this case. It was upon that ground decided, as I understand it to have been by the Court, that I put several questions in former stages of this prosecution to the Generals engaged in the expedition, and it is upon the same ground that I put the question now.

Here Lieutenant General Whitelocke put in his reasons at length, in support of the objection, which was read as follows:—

“ I must object to this question, and am sorry that I must trouble the Court rather fully upon it; but I am satisfied that in a case so important to myself and the country, the Court will forgive my trespassing a little upon their time. I object to general opinions being asked, as totally contrary to every principle of law and justice; as tending to establish a most mischievous precedent, and putting it in the power of every witness who may be biassed, or who may, from any supposed neglect or injury, have imbibed prejudices against the person charged, to do him irreparable injury, without his having any possible means of redress.

“ I beg I may not, even for a moment, be suffered to insinuate or imagine that the witness now under examination has or could entertain, or possibly act upon, any such feeling.

“ I object to it now, when first put, upon the ground of precedent; and earnestly call the attention of the Court to it.

“ I submit with great deference to the Court the following grounds for this objection.

“In a court of law, opinions are never permitted to be asked but in cases in which subjects of science are to be ascertained, and in which it is therefore necessary to call men of science upon questions relating to their profession, for the purpose of enabling a jury who are ignorant of the subject to decide. If the question is in a criminal case, whether a man died of a wound, or in a civil action against a surgeon, by a patient for unskilful treatment, whether proper means were used to cure a wound, medical men are called to give their opinions, upon the facts stated even by other witnesses, as to whether the death arose from the wound, or whether the wound was properly treated.

“In no other cases whatever are opinions admissible in a court of law, except in the general evidence which is allowed to be given of the character of a person charged, who in a criminal case, in a court of law, or in courts martial, is allowed to ask witnesses a general question as to his character and conduct in life, or as an officer. The Court is to form an opinion, and to draw conclusions from the facts before them, as the foundation of their ultimate determination; and on this subject I beg leave to refer the Court to what took place in the trial of Admiral Keppel, who, in the evidence of Lord Mulgrave, objected to a question of opinion, and the Court found themselves obliged to wave compelling him to answer any such question. The only case in which opinion has been permitted, was that of Lord Sackville, in which it is to be observed, that every species of irregularity and departure from all rules and usual forms, both of courts of law and of courts martial, and almost from all decorum in the altercation between Lord Sackville, the members of the Court, and the Judge Advocate, took place; and in which it was even allowed to support the evidence of witnesses by proving their conversations, and what they had said out of court to other persons not in presence of the prisoner, and to apply direct hearsay evidence, both to the prisoner and witnesses against him. I beg at the same time

to be understood as not objecting to many questions which have arisen, and which must arise, in every investigation of this sort, in which it is for the Court to judge how far the professional opinion, founded upon the experience and science of the witness, will enable them to form a just estimate of the nature and practicability of a country; the facility with which it might be crossed; the probable effect of any particular measure if it had been adopted, or of any attack which might have been made; and in which, therefore, the Court may avail themselves of the experience of a witness, and ask even his opinion as an officer upon a point of science, as the only means of enabling them to form a correct judgment. This is in conformity with the practice of all other courts, in which opinions on subjects of science are allowed; and the court, in this case, exercise their discretion as to the points upon which they will pursue such a course of examination.

“But it is not consistent with the justice due to the person accused, nor with the dignity of the Court, to transfer to the witnesses’ power which is delegated by his Majesty, namely, that of judging of the conduct and motives of the person charged.

“The witnesses may, when asked, assist the Court with their opinions upon subjects connected with the science; but are not to be allowed, still less asked, to draw conclusions, or give opinions upon the conduct of the person accused. The witness, therefore, cannot be permitted to relate, whether in his opinion I conducted myself well or ill, or performed or neglected my duty on such a day or occasion; or to draw any inferences or conclusions in relations as to my conduct: he is to state what he saw and heard, and what I said and did, and how I acted in relation to the subject of charge; and from his evidence the Court draw the necessary inferences and conclusions upon my conduct and motives, and form their own opinions as to whether I performed or neglected my duty.

“This is analogous to the cases of daily occurrence, in which the nature and character of the offence depends upon whether the person charged was actuated in what he did by malice towards the person injured. A witness is never allowed, nor can be permitted, to state his opinion or belief, that the prisoner was actuated by malicious motives; that is an inference or conclusion to be drawn only by the court and jury from the facts proved, and the conduct of the party, and what he said and did.

“This is founded on the wisdom of our courts, and in protection of those charged.

“If a man swears to facts which are false, or to his belief, even of facts which he must know to be false; as for instance, that he believed certain grounds to be practicable, which he must from examination have known not to be so, I could indict him for perjury; but I could indict no man for saying that he thought I conducted myself ill, or did not perform my duty, though his opinion might be founded on prejudice or malice. Evidence of any extent or description of this sort may be given with impunity. God forbid, that I should impute perjury to any of the witnesses who may be called; their profession and situation exempt them from the suspicion; but I need not advert to the opening address of the Judge Advocate, for proof of strong opinions having gone forth. I trust I shall prove them to be founded on prejudice; but they may, nay, they must, sway the opinions of many. If opinions of this sort are permitted, what must be the situation of those who have been unfortunate, and become the subject of a criminal charge. There will be enough witnesses, who will judge from misfortune only to convict.

“But it is not only in the wisdom of courts, and the protection of persons accused, that all this is founded; it is founded also in the purest reason, and in what is essentially due to the character of the Court itself. Opinion is but the conclusion which a man draws from himself, as the just result of his

own reflection upon certain facts. Different men very frequently draw different conclusions from the same facts, and it is absolutely necessary, in order to form any judgment of the validity of any one opinion, that all the facts upon which that opinion has been formed, should be presented to those who are to judge of that validity, in order that it may appear to them whether the opinion which has been so formed upon them is correct or not. To suppose that the mere opinion, unaccompanied by the facts of any witness, upon any case (except in the instances before stated) can be taken as evidence to govern the judgment of the members who are to decide upon that case, seems to be almost an insult upon the Court, inasmuch as it supposes a total surrender of its deliberative functions, and of its duty to judge for itself. And to offer a witness's opinion as evidence, though accompanied by a statement of the facts on which he forms it, is to offer what is obviously nugatory and useless. For if the opinion which the witness has formed upon those be an erroneous opinion, it must necessarily be rejected; and if it should even appear to be a just one, it can be no more than that which the Court, upon that consideration which it must give to those very facts, in order to ascertain whether it be a just opinion or not, must have already formed for itself. So that in either case, whether the opinion of any witness be a just or an unjust one, it cannot have the effect of evidence to inform, or in any manner to assist or influence, the judgment of the Court.

“I have been supposing that all the facts of the case are already known to the witness. But the Court must see that it is very possible that a witness's knowledge of the facts may be only a partial one; and different circumstances only may be known to different witnesses; and different witnesses, supposing themselves to be acquainted with all the facts of the case, though really not so, may severally entertain, and conscientiously, too, upon what they each suppose to be the same case, opinions diametrically

opposite to each other. Yet, if mere opinions are to be taken as evidence, each of those opinions coming from witnesses, alike honourable and intelligent, will be entitled, however opposite and contradictory, to be alike received, and the investigation will be necessary for the Court to determine the preference due to this or that opinion, will be precisely the same as will be required to decide upon the charges themselves. But it is not for the trial of officers' opinions that this Honourable Court is assembled; and I feel confident that it is neither by those opinions, nor by any which may have been hastily taken up, or studiously and indecently expressed abroad, that the charges before you will be tried. It is to this Court, and to the judgment of the Honourable Members who compose it, that those charges are referred. It is by their opinions that the estimate of my character and conduct is to be formed. I submit with cheerfulness to officers whose rank and characters are a sure and a safe pledge that, not condescending to be guided by the prejudices or, I hope I may say, by the opinions of other men, the only judgment on which their decision will be formed will be their own. I am sorry to have troubled the Court so long; but, in a case like this, in which such strong prejudices have been excited, in which even strictures upon my conduct have been published and industriously circulated, since it was known I was under arrest for trial, by officers on the expedition, it is impossible I can, without a most solemn protest against it, allow such evidence to be given. I entreat the earnest attention of the Court to it, not for myself only, but for their deliberate decision, which will establish a precedent for other cases; and beg the Court once more to refer to Lord Keppel's Trial, pages 91 and 92, and Peache's Evidence, page 190, in support of the arguments I have submitted.

“ [Q. To your knowledge and observation, did Admiral Keppel negligently perform the duty imposed on him on the 27th or 28th of July?

“A. I have taken an oath to answer the truth to all questions. I look upon opinions to be matter liable to error. I have answered every fact that has come within my knowledge as distinctly as I could. I hope the Court will not press upon me to give my opinions. I have always thought that the opinions and thoughts of individuals were sacred; I have declined to my most intimate friends giving any opinion upon this case. The Court, who are to form their opinions upon the evidence, take an oath not to divulge each other's opinions; I hope the justice, candour, and reason of the Court, will extend that protection to me which the law has given to them, and that I shall not be called upon to give any opinion. The Court are to judge of the facts before them, and I should think myself in a most disagreeable situation, as a witness, if I am to be called to answer upon my oath to that which is matter of opinion; and perhaps after giving it to-day, at another time I may alter my opinion, and think it not a just one. The facts I can speak to as matters of knowledge; as to opinions, I cannot.

“*A Member of the Court.*—I fancy your Lordship has totally misunderstood my question. I have not asked your opinion; I will not ask your opinion, or the opinion of any evidence that appears to this Court. I do expect from every evidence that he will answer to such questions as shall be asked, that he swears the truth, and nothing but the truth, so help him God. The question I asked is, from your Lordship's own knowledge or observations of the transactions of those two days, did Admiral Keppel negligently perform the duty imposed on him?

“A. I perfectly understood the question, if I understood the language. It imports to me much, when I am upon my oath, to go by my own understanding, and not by that of other people. The term negligence implies a crime; I must be equal to the duty of an Admiral commanding in chief, before

I can decide upon oath whether he did his duty or not. It is for this Court to decide that, and not for me. I have answered the facts, and if I am to be urged more by the Court, it is not the Admiral accused, but it is me that they are trying; because I am to form an opinion how that fleet was to be conducted, and not the man who commanded it. I think it is not my duty, as a witness, to do that, if it is pressed by only one Member of the Court. I must desire to have the sense of the Court; that they will consider the oath that they have taken, that I have taken; and take into their minds whether the opinion of an individual ought to influence their judgment in a trial of this importance. If it is necessary that the Court should withdraw for that, I hope they will solemnly and deliberately consider the situation they and I stand in, before they will call on me to say whether the Admiral was guilty of negligence or not. A matter of fact which may in one case be meritorious, may in another be criminal; and I am called upon to decide whether the acts done by the Admiral that day were meritorious or criminal. I have answered to every fact, to every motion of the fleet that I observed, to every signal of the fleet that I saw. I am ready and willing cheerfully to answer every question of fact; but to answer whether I am of opinion that the Admiral was guilty of negligently performing his duty or no, does not become me as a witness. I speak freely, because my situation becomes me to do so. I am an injured man, if I must answer that question; and if the question is pressed upon me by an individual, I hope the Court will consider a few minutes my situation. My mind is very much agitated by such a question. I would add a few words to what I have already said to the Court, which are, and I do it as now under the sense and impression of the oath I have taken—It has happened to me, during the course of the time I have had the honour to serve under the Admiralty, to disapprove, in my own mind, of particular steps,

and upon farther reflection and consideration to approve them, and to feel that I was wrong; after that, will the Court, at this moment, call upon me to give an opinion, that perhaps I may alter hereafter.

“ *A Member.*—My Lord, the language you have made use of to this Court, will appear without doors in a very strange light.

“ *A.* I must insist upon stopping this, if I am to have a question put to me. I believe it is the right of every member to do it; but if I must receive a reprimand, it must be from the whole Court.

“ *A Member.*—You are to appear as an evidence, and answer such questions as shall be asked you; and I believe in no Court of Justice in Great Britain would any witness make use of the language that has been made use of here to a Judge.

“ *A.* I am sorry to be treated with warmth, I do not know I deserved it; if I did, I am ready to submit to the Court, but I spoke my own opinion; I spoke my feelings when I objected to a question I thought I was not bound to answer. I hope, if I am corrected, it will be by the Court, and not by an individual of the Court; I believe it is the rule of the service. I submit to those more experienced in the practice of the Court, that any correction must come from the body, and not from an individual member.

“ *A Member.*—Indeed the whole trial is a new mode; I do not know what to say.

“ *Another Member.*—I differ exceedingly from his Lordship, because every Member of this Court has undoubtedly a right to ask a question; and there surely would be no end to a trial if every Member is to be asked if that question is to be put.

“ *A.* I do not dispute the right of a Member to put a question; but one member of the Court seemed to be passing a censure.

“ *A Member.*—I can only say, that what has fallen from his Lordship appears greatly like a censure

upon the Court. During forty-six years' experience, thirty of which I had the honour of being a Captain and an Admiral, I have sat at many Courts Martial, and I never saw an evidence make use of language to a Court like that which has now been made use of, and which, I hope, will have no influence upon the Court.

“ A. I declare, I felt no disrespect for the Court. I was too much taken up by my own feelings upon the question put to me. I thought it my duty to state to the Court my objection to that question, and to call upon the Court in the most solemn manner I could, to consider before they put that to me which I thought myself not bound to answer. It was respect to the Court and not disrespect, which made me say that. I hope no improper constructions will be put upon my words; I am perfectly cool myself, though I am agitated. I meant to give no offence; I am not conscious I have done it. I submit myself to the Court, and to their candour and consideration.

“ The Court retired, and in about an hour and a quarter returned, when the President acquainted his Lordship that he was directed by the Court to acquaint him with their resolution, which was in the following words:—

“ My Lord, I am directed by the Court to observe to your Lordship, that in the course of the reasoning you have offered, in declining to answer the question which has been put by one of the Members of the Court, with the approbation of the whole, the language made use of, and the warmth with which it was explained, are unbecoming the dignity of this Court to receive.

“ The treatment is such, that they cannot pass it over without observing to your Lordship the sense they have of its impropriety; and it is their pleasure

that I acquaint your Lordship with their disapprobation of your behaviour.

“ The Judge Advocate then read the following resolution :

“ That the question which has been put to your Lordship shall be repeated ; but as by the oath you have taken, you have said you conceive the question to lead to matter of opinion, you are at liberty to answer it or not.”

“ The question was then repeated.

“ Q. To your knowledge and observation, did Admiral Keppel negligently perform the duty imposed on him on the 27th and 28th of July ?

“ A. It is my duty, certainly, to submit with the greatest respect to the determination of the Court ; I can only say, I had no intention to give offence. I meant to speak my reasons for the refusal, with respect to the Court. It has appeared otherwise to the Court, and I am concerned that they should misconceive what I meant.

“ Court asked—Do you chuse to answer that question ?

“ A. I do not ; I can give no answer to that question.”]

A Member.—We want to know the grounds of the opinion which was founded upon fact.

Judge Advocate.—It is fit I should state I mean to follow that question by another ; that is, if the Court decides that the question may be put, I mean, in pursuance of the line of conduct I have already pursued, to ask Sir Samuel Achmuty a question as to his opinion concerning the conduct of Lieutenant General Whitelocke ; and I am not in the least shaken by what I have been reading, in my view of the propriety of it.

A Member.—You wish to know the grounds on which Sir Samuel Achmuty formed the opinion he

gave to Lieutenant General Whitelocke, and whether it was the effect of any approbation of the conduct that led to the state of things that produced that opinion, or the reverse?

The question read.

A Member.—It is as to the opinion General Whitelocke received from Sir Samuel Achmuty. We must know the grounds upon which that opinion is formed.

Here a paper was handed to the President, which was read as follows:

“As explained by an Honourable Member of the Court, I do not object to it. It is only as explained by the Judge Advocate, as asking general opinions as to my conduct, or on hypothetical grounds, that I object. I do not object to Sir Samuel Achmuty’s opinion upon any military operation or arrangement.”

Judge Advocate.—I am afraid that a good deal of the time of the Court may have been consumed, because the question I was about to put was not an hypothetical one; it was a question founded upon what he had seen, upon what conversation he had had, or any other fact that passed before his eyes, that enabled him to form an opinion.

The question read.

Judge Advocate.—Lieutenant General Whitlocke asked me whether I meant to confine it to the plan of the expedition, or extend it to the general conduct of General Whitelocke. I stated I did not confine it to the plan, if by the plan is meant the plan in the Gazette, but to the general conduct of Lieutenant General Whitelocke.

A Member.—The question imports this. You gave an opinion to General Whitelocke, and the Court asks upon what did you found that opinion.

Tell us the motives that actuated you in giving that opinion.

Judge Advocate.—Q. Did that opinion include any approbation of the conduct of Lieutenant General Whitelocke?

A. Certainly it did not.

Q. Was it, or was it not your opinion, that the force which left Monte Video to engage in the expedition against Buenos Ayres, if differently conducted, would have been successful?

Judge Advocate.—I do not mean to conceal that I do consider it to be a question of opinion founded upon fact. I am placed in some difficulty in this case, because I do not know whether the objections which Lieutenant General Whitelocke has made to the questions, are such as have produced an impression upon the minds of the Court. I am prepared to answer satisfactorily, to my own mind, at least, the objections made, and which appear to be founded on the premises that are laid down from the conclusion I draw. I am not asking a general question of opinion of an indifferent witness, but the opinion of a General Officer who has been upon the spot, and who held a high command in the expedition, as to the conduct of Lieutenant General Whitelock; I am calling upon him to give that information to the Court, not upon hypothetical questions on military science, but to give that information which the Court, not having been upon the spot, cannot be apprized of. That is the ground upon which I put the question.

A Member.—I suppose if there was any doubt about the propriety of your proceeding, some Member would order the Court to be cleared.

The question read.

A Member.—I really cannot reconcile my mind to receive any opinion which Sir Samuel Achmuty may

give upon the conduct of General Whitelocke, to bring it into disrepute ; it will be a sort of prejudging the question: it is for us to judge from the facts.

Judge Advocate.—I shall be happy to inform the Honourable Member of the grounds upon which the question is to be put ; but it is for the Court to decide, and not me.

Lieutenant General Whitelocke handed a paper to the President which was read, as follows:

“ The difficulty arises out of the hypothesis, *if it had been differently conducted.*” By this means a question is asked as to the opinion of the witness upon the general conduct.

Court cleared.

Court resumed.

President.—The Court are of opinion the question may be put.

Question read.

A. In my opinion the force was sufficient for the reduction of Buenos Ayres.

A Member.—Do you believe any advantage would have occurred if the arms had been loaded ?

A. I do not, as far as respects my own column.

Lieutenant General Whitelocke.—Considering all the circumstances, and the number of the attacks, was the situation chosen by myself and Major General Gower a proper one ; or what other situation would you have selected to have remained in during the attacks ?

A. The situation was a central one ; and as far as I can judge, a proper one for the Commander of the Forces when the attacks commenced.

Q. Should you have thought it either judicious,

safe, or proper, to have permitted the men to have advanced with loaded arms; and did you consider yourself as restrained from loading when you arrived at any point or obstruction in which loading would become proper?

A. I should certainly prefer marching through the streets of the town with unloaded arms for the principal part of the corps. I did not consider myself restricted from loading whenever I thought it necessary.

Q. What number of inhabitants were there in Monte Video?

A. The population of Monte Video was estimated at twenty thousand, but there certainly never were so many there when I commanded. I should think about twelve or fourteen thousand. The country round it was populous.

Q. If Monte Video had been kept by a garrison, to be supplied with uncertainty and difficulty by the shipping must not all the inhabitants have been sent away?

A. Undoubtedly.

Q. Would any post maintained by means which must have exasperated the inhabitants have been of any present advantage, or have facilitated any future views of this Country as to South America, and would it not have had a contrary tendency?

A. It would not have been of any present advantage, and would not have facilitated the views of this country in future to South America, unless this country was determined to conquer that country by open force.

Q. Had you not stated to government before my arrival at Monte Video, your opinion that it would require a force of 15,000 men to conquer and keep the country, and had your further experience of the disposition of the inhabitants towards us, led you to alter that opinion?

A. I stated to government that it would require a force of 15,000 troops to conquer and keep that country. I have had no reason since to think that a smaller number would have been sufficient.

Q. Had we any probable means of getting back either the prisoners taken from us or the 71st regiment, and other prisoners taken under General Beresford, but by acceding to the terms, and giving up La Plata.

A. I know of no other means of recovering the prisoners taken under General Beresford, and I am very doubtful whether any measures that we could have adopted would have recovered the prisoners taken in the attacks.

Judge Advocate.—Q. What were the number of prisoners taken by the brigade under your command at the Plaza del Tauros?

A. About seven hundred.

Q. In answer to a question put to you by Lieutenant General Whitelocke, whether the situation he took was a proper one, or what other you would have selected for him and Major General Gower to remain in during the attack. You stated that the situation was a proper one when the attacks commenced. Was it in your opinion a proper situation for Lieutenant General Whitelocke to remain stationary in from day break to sunset, during such a day, and under the circumstances within your knowledge?

A. I am not sufficiently acquainted with the disposition of the forces, the nature of the country, or the plans and intentions of the General decidedly to answer the question.

A Member.—I wish to ask when the prisoners were taken by you at the Plaza del Tauros, what number of artillery was taken, and the calibre of the guns?

A. I took thirty-two pieces of cannon, most of

them field pieces, and the calibre answering principally to twelve and six pounders. Many of them were our own guns that had been taken with General Beresford.

Q. I wish to know in what state they were, whether the guns were rendered useless, and whether there were any tumbrils or ammunition with them?

A. The guns were all spiked; I was successful in clearing the touch-holes of a few of them, and there was abundance of ammunition.

Q. Were the seven hundred prisoners that were taken by the brigade under your command, of a description that the Spaniards would probably have been desirous to recover, by giving an equal number of British prisoners in exchange for them?

A. They were of their best description of troops, but I am perfectly persuaded the Spaniards would not have exchanged them against an equal number of our men.

Q. Might not the possession of Monte Video, and the command by the shipping of the entrance of the river Plata, have led to other views beside those of conquest, which this country might afterwards have adopted with regard to South America?

A. If by other views, are meant views of conciliation; and if by the possession of Monte Video, is meant our retaining it after dispossessing the inhabitants, I think not.

Q. Do you know the distance from White's to the Recoleta?

A. I do not.

Withdrew.

Lieutenant Colonel NUGENT called in again.

The third and fourth charges read.

Judge Advocate.—Had you the command of the 38th regiment on the 5th of July last?

A. I had.

Q. Did that regiment form a part of the brigade under Sir Samuel Achmuty's command?

A. It did.

Q. Will you state the operations of that regiment, from the period when you marched, upon the signal being given on the morning of the 5th, till the taking of the Plaza del Tauros, and your forming a junction with the corps under Sir Samuel Achmuty's command?

A. I marched with the regiment from their cantonments about five o'clock in the morning, and halted at a place pointed out to me by Sir Samuel Achmuty, in a road leading to the church of Recola, with my rear clear of the Lign to be occupied by the left column of the 87th regiment. On the commencement of the cannonade at half past six, we pushed forwards, and in about twenty minutes arrived in a narrow lane, leading to the Plaza del Tauros, at the head of which was a large house occupied by a detachment of the enemy, who kept up a sharp fire on the column as it approached. The door, however, was in a short time forced, and the troops within put to the bayonet. The enemy having a numerous artillery on the Plaza del Tauros, which we endeavoured to possess ourselves of, but from a destructive fire in all directions, we found it impracticable. Having lost a number of men in the attempt, I judged it expedient to get possession of a large house looking to the river, and situated on the edge of the cliff, and at that time also occupied by the enemy, in order by that means to silence their guns, and turn their right flank. Accordingly, two companies were detached

for that purpose, who having first possessed themselves of the house, afterwards sallied out by a back door, and charged the enemy in the fort and barracks of the Retiro, on the flag-staff of which we hoisted our colours, from whence they retreated, spiking all their guns, but one twelve pounder, which we immediately turned on the Plaza del Tauros; the good effect of this was soon observed, as, after every round, numbers were seen to rush out endeavouring to escape towards the town. On continuing the cannonade for some time, a white handkerchief was shewn by the enemy in the building, and at about half past nine, the remainder of them within, amounting to about four hundred men, surrendered at discretion. In the course of half an hour afterwards, Sir Samuel Achmuty, who had joined us during the cannonade, ordered the 87th regiment from their position, to relieve a company of the 38th, which I had placed in charge of the prisoners, in the Plaza del Tauros, and sent that company to join the regiment which was posted at different places of the Retiro, and at the ends of the streets leading into the ends of the town. During the day, Brigadier General Lumley, the 5th and 36th regiments, joined us at our position.

Withdrew.

Captain JOHN CHARLES CONWAY COSTLEY, called in and sworn.

The third and fourth charges read.

Judge Advocate.—Q. Did you command the left wing of the 87th regiment, upon the 5th of July last?

A. No.

Q. Did you accompany that left wing on its march into the town on the 5th of July?

A. No; I was Brigade Major to General Gower.

Withdrew.

Major HENRY KING, called in and sworn.

Judge Advocate.—Q. I believe you commanded the left wing of the 5th regiment on the fifth of July last?

A. I did.

Q. Did that regiment form a part of the Brigade under Sir Samuel Achmuty's command?

A. It did.

Q. State the operations of that wing of the 5th regiment, of which you had the command during the attack of the town, till the period when you rejoined Sir Samuel Achmuty.

A. Having previously received instructions from Sir Samuel Achmuty, on the evening of the 4th, the left wing of the 5th regiment was formed opposite the avenue pointed out by him. On the cannonade commencing in the centre, the column advanced: on reaching the entrance into the street, I ordered the front rank of the leading section to come to the charge; we advanced with a quick pace down the street. The enemy on our advance, abandoned four pieces of cannon, with which they were apparently retreating from the right: it was ascertained that they had spiked the guns, and shot the horses previous to leaving them. The column reached the river without opposition. I then looked about to observe what houses were proper to be taken possession of, according to our plan of attack, and I retired the column about fifty paces for that purpose. The firing having then commenced, I thought it necessary to load, and then broke open a house, the top of which I took possession of, and on which the regimental colours of the 5th, was displayed. I detached parties to take possession of different houses, and a church near. By this time a very galling fire commenced from the Plaza del Tauros, which commanded the house upon which I stood. Between nine and ten o'clock, the firing from the Plaza del Tauros ceased, and the British

colours were placed upon it. Having remained till near twelve o'clock, some of the men pointed out a French colour upon a house to the right, expressing a desire to take it. Having received no orders during this period, I left a serjeant and twelve men to guard the prisoners, many of which were brought to me by my detached parties, as well as to protect the wounded. I then advanced to the right, and received so heavy a fire that I thought it necessary to break open a house to the left. Into the court-yard of this house I had the wounded men brought. I then proceeded to attempt to take the house where the French flag was flying; on advancing, I sustained such loss, that I felt it necessary to retire to the house I had previously broke open.

Adjourned.

TWENTY-FIRST DAY.

THURSDAY, FEBRUARY 25, 1808.

The Honourable Lieutenant Colonel HENRY KING was called in again, and continued his narrative.

I entered the court-yard of the house, and detached an officer with the wounded to where I had left the surgeon. I also requested a reinforcement from Colonel Davie. I was joined by a few more men; at the same time I received a message from Brigadier General Lumley, stating that I covered his right. The men expressing a great deal of ardour, I again determined to attack this house. On advancing for the purpose, I found the offensive and defensive means of the enemy so much superior to mine, that notwithstanding my supposing, from the peculiar circumstance of a French flag flying upon this house, that it might be occupied by some officers of importance to the enemy, I was obliged again to retire to the court-yard of the house which I had before broke open. The enemy had two pieces of cannon at the upper end of the street, which however they were prevented working by the fire of our musketry. The tops of the houses were completely covered by the enemy, and it was in their power to destroy our men with very little danger to themselves. We could only occasionally fire with any effect when their heads were seen above the parapet. Added to which, the difficulty of breaking open the doors was extremely great. Observing my attempt to get into the above-mentioned house was totally impracticable, and that the enemy might cut me off by superior numbers if I remained where I was, (having previously sent off the wounded) I retired to a

street, where I found a detachment of the 36th. Shortly after Captain Ridge, of the 5th, informed me that a body of the enemy were advancing from the upper end of the street. I formed the men of the 5th with the intention of advancing to charge them. On approaching them I observed an officer with a white handkerchief in his hand. I ordered the men to halt and to remain ready at the charge. My front extended across the street. By this time the enemy were very close. I advanced to the officer, who had also halted his men, from whom I understood he had surrendered himself and his party as prisoners of war. I desired them to lay down their arms, and for that purpose seized two or three of their firelocks from the men near me, and threw them on the ground. At this time the enemy had accumulated greatly in numbers, menacing my party, and flourishing their swords and pistols. Just at this moment, one of them having presented at me, one of the 5th started forth and made a thrust of a bayonet at the officer I was talking to. He started aside, and it did him no injury. Observing they did not lay down their arms, I thought it necessary to demand his sword, which he immediately gave me. At the same moment the officer who carried the colour informed me that the enemy had attempted to seize it. I immediately ordered the men to charge, and the enemy turned and ran as fast as possible, leaving a few killed behind them. Nothing material occurred after this. We proceeded to break open the houses, according to orders. When we were in the act of breaking one open, I received an order from Brigadier General Lumley to form a junction with the right wing of the 5th, and retire to the Plaza del Tauros. This order was immediately obeyed, and about three o'clock we entered the Plaza del Tauros.

Judge Advocate.---In the course of that day you did not rejoin the right wing of the 5th till after the

order you received from Brigadier General Lumley?

A. I did not.

Q. What number of intrenching tools, or other instruments proper for breaking open houses had your wing at the time of the attack?

A. I cannot remember; we had some.

Q. Of what number were those you had; what sort of tools were they?

A. To the best of my recollection, we had some of the regimental pioneers' tools; we had the crow bar and the mattock our men found in the suburbs of Buenos Ayres.

Q. Did you find the crow bar and a mattock during the advance?

A. The evening previous to the attack, we collected all the tools we possibly could, and Colonel Davie made a division of them between the two wings.

The witness withdrew.

Lieutenant Colonel HUMPHREY DAVIE
called in again.

The third charge was read.

Examined by the Judge Advocate.

Q. Did you command the right wing of the 5th regiment on the day of the attack on Buenos Ayres?

A. I did.

Q. State the operations of the wing under your command, from the time of your marching to the attack of the town till your junction with the forces under the command of Sir Samuel Achmuty at the Plaza del Tauros.

A. The right column of the regiment under my command proceeded, at half past six o'clock on the morning of the 5th, down the streets that had been previously pointed out the evening before by Brigadier General Sir Samuel Achmuty, and it arrived at a quarter past seven on the banks of the river, without meeting with the slightest opposition. I immediately posted the king's colour with a part of the column on the tops of the houses in the square nearest the river, and placed troops at the different angles of the streets, intersecting each other. Shortly after, in conjunction with two companies of the left wing, I took possession of the church of St. Catalina, from the tower of which, about nine o'clock, I observed a white flag hanging out of the Tauros. Captain Brooke, Assistant Quarter Master General, joined me about that time, and informed me of the capture of the Tauros. I proceeded along the Strand, to receive orders from Brigadier General Sir Samuel Achmuty, who came to the church about eleven o'clock, and after making his observations from the tower, gave me orders to retain the position I was in, and if pressed by the enemy to retire on him to the Tauros. About one o'clock I received a message from General Lumley, by a serjeant of the 30th regiment, requesting me to advance to his support to the right. I immediately proceeded with three companies, and found, on joining him, that the 36th had received orders to retire. Two companies of the left wing, under Major King, then joined me, and we retired along the Strand, in the rear of the 30th regiment. We arrived at the Tauros about half past two; I think before three.

The witness withdrew.

The Honourable Brigadier General LUMLEY
called in again.

The third charge was read.

Examined by the Judge Advocate.

Q. Did you lead the right wing of the 36th regiment, which formed a part of the brigade under your command, that brigade consisting of the 36th and 88th regiments, on the day of attack.

A. I did.

Q. Will you state the operations of the right wing, which you led, from the commencement of the attack till the period at which you formed a junction with the corps under Sir Samuel Achmuty's command; and what came within your knowledge of the operations of the other part of the brigade which you commanded?

A. About six o'clock in the morning of the 5th of July, the two regiments composing my brigade were formed, having left their packs and great coats in their cantonments, under a guard, according to the orders previously received. The 88th were in two columns, with the head of each on the road down which it was to proceed, and the 30th in one column in readiness to move in the direction in which I intended myself to lead it, until I could ascertain the two nearest parallel roads to those down which the 88th were to march. Having given orders to Lieutenant Colonel Duff and Major Vandeleur, commanding the two above-mentioned columns of the 88th, to move slowly, but not to advance beyond the outposts until the signal guns were fired, and then to push rapidly on and penetrate if possible to the river, or to post themselves as far in advance as they were able, taking possession of any church, or large house or houses, which they might afterwards be best able to maintain and

defend. Accompanied by Lieutenant Colonel Stewart, the Deputy Adjutant General to Brigadier General Craufurd's expedition, and Captain Watson of the artillery, (who had served at the capture of Monte Video, but was on the establishment at the Cape; both of whom being at that time unemployed, had volunteered their services with me, on landing, and for whose zealous assistance, together with that of Brigade Major Roche, I shall ever feel myself highly obliged), I proceeded in an oblique direction with the 36th regiment, until I again came upon a road, which appeared to me to lead directly into the town. I soon after detached the left wing of the 36th regiment under the command of Captain Cross, to proceed still further to the left, and to move in a parallel direction with the right wing, on the first road on which he might be able so to do, and with the same orders I had previously given to Lieutenant Colonel Duff and Major Vandeleur. About this time, to the best of my recollection, the signal guns fired, and the day began to dawn. I can now only speak with accuracy of the movements of the right wing of the 36th, under Lieutenant Colonel Burne, with which the necessity of ascertaining the roads, had placed me; with this column I then proceeded, as fast as the exceeding bad state of the broken up road and street would permit. Soon after our entering the street, a partial firing of musquetry, commenced upon us in various directions; but we proceeded in penetrating to the last cross street, adjoining to the river. The pick-axes which had been delivered to the columns were useless in breaking open the strong massy doors and windows, which I believe are the same throughout the town; but by the united efforts of the soldiery, we at length forced open some few houses, between the two streets parallel and nearest to the river, and one large and high house, between the last street and the beach, upon which I directed the colours of the 36th regiment to be planted, as a

signal and encouragement to the other columns of the brigade; and also to such other parts of the army, as might be able to observe it. The cross street in the rear of my position was now enfiladed by two guns from one entrance to the square; the street next adjoining to the beach was in like manner enfiladed by two guns, from that part of the square immediately under the fort; as also by three guns from the fort itself. The fire of some of these guns was generally directed with great precision and effect against the large house before mentioned. A constant and heavy fire of musketry was also poured upon us in every direction, without our being able to perceive those who fired upon us, so completely were they hid by the parapets of the houses. We were thus situated for some time; at length six men of the 80th regiment, together with some grenadiers of the 30th who had advanced and occupied an intermediate house, but had been driven back, making their way over the tops of some of the houses, reported that almost the whole of the 88th regiment were prisoners, which was afterwards confirmed to me by Colonel Ellio, a Spanish officer with a flag of truce, who assured me that above a thousand of our men were already prisoners, and proposed to me to surrender. This I peremptorily refused. Almost immediately afterwards, it was reported to me that two guns were advancing along the beach, for the purpose, as it should seem, of attacking us in front. Having about this period expressed my anxiety to ascertain the situation of Sir Samuel Achmuty, whom I supposed to be on my left, Captain Watson offered to endeavour to find him, and to report his situation to me. All opposition to the enemy having now ceased on the part of the 88th regiment, the fire of both artillery and musketry was wholly directed against the 36th. An attempt was now made to bring two guns into the street, down which I had marched, and at the end of which I then was;

these, although at some distance, would have completely enfiladed my position in the rear, in the same manner the two guns on the beach were intended to do in front. About this period I had ordered up the left wing of the 30th regiment to my support, and nearly at the same time Major King of the 5th, by some chance, which he will be best able to explain, appeared with the left wing of that regiment in my rear, at the further end of the street, and at the very point where the enemy had assembled in great numbers, conducting the two guns before-mentioned. To these, he opposed a most gallant resistance, possessing himself of their guns for a short time I believe. Although the necessity of self-defence had obliged us to commence firing long before this period, yet the contest was very unequal from the first, opposed as we were by a numerous artillery, as well as musketry, in every direction. I now sent to Lieutenant Colonel Davie of the 5th, to recommend his advancing to the support of the left wing of his regiment. Two Spanish officers had again come out to propose a surrender, but as their manner was both rude and uncourteous, I recommended to them to retire without delay. Colonel Ellio soon afterwards again came towards me, with authority from General Liniers, to require an unconditional surrender within a quarter of an hour; I was again equally peremptory in my refusal. At the time of these discussions a total cessation of firing had, to all appearance, taken place in all other parts of the town, from which I concluded that the troops under Brigadier General Craufurd were either prisoners, or had been obliged to retire; numbers of the enemy during these conferences with the Spanish officers, either intoxicated with liquor or with their success, or perhaps both, had rushed forward under the idea of taking prisoners, and disarming our men; their temerity proved fatal to many of them. The guns too on the beach had been much advanced, and were covered by about

seven hundred of the enemy; the gallant Lieutenant Colonel Burne having been informed of this, and stating to me that whatever our future operations might be, these guns would, ere long, be a most serious annoyance to us, of which I was but too well aware; he having obtained my permission, pushed on at the head of some of the grenadiers, as well as some small detachments of the battalion companies, in all, not much exceeding fifty men, drove the enemy before him under the walls of the fort, spiked their guns, and sought shelter under a low house and garden hedge, from the heavy fire which was then opened upon him from the fort. I had now received intelligence, by a pencil note, from Captain Watson, that Sir Samuel Achmuty was in possession of the Plaza del Tauros, and that he recommended my retiring along the beach, and joining him on the heights of the Retiro. I wrote, in answer, on the back of the same note, "I am still in possession of my post; cannot Sir Samuel support me?" This note never again reached its destination, it was now near two o'clock, we had been engaged in this unequal contest for above six hours, our numbers much reduced, men and officers falling fast, forbid in the first instance by our instructions to advance against the fort and square, all the ammunition being expended, and well aware that I must, ere long, be completely surrounded and overpowered by numbers, I deemed it most adviseable for the good of the service, instead of a longer fruitless resistance, to fall back and reinforce Sir Samuel Achmuty, with the remains of the 5th and 30th regiments, then with me. I accordingly retired along the beach, still exposed to a heavy fire of grape and round shot from the fort, and with some additional loss, between two and three o'clock I joined, and put myself under the order of Sir Samuel Achmuty, with the two regiments above-mentioned. The conduct of the troops under my command, was above all praise; but I think it

but justice to them, here to state, that visible as it must have been to the eye of every common observer very early in the day, that we had no prospect of success, not a murmur was to be heard, nor even an appearance of a wish to retreat; the behaviour of both men and officers evinced that degree of cool determination, steady, patient perseverance, and prompt obedience to orders, which are the real criterions of true bravery and discipline. The remainder of the day was occupied in using every exertion to strengthen the post we then held.

Judge Advocate.—The period to which I requested you to confine your attention at first, I believe, is now arrived; I mean that at which you joined Sir Samuel Achmuty: we have had already from Sir Samuel Achmuty, a detail of the operations after that period. After your separation from the left wing in the morning, how soon did that left wing rejoin?

A. I cannot be exactly certain, but I should conceive about twelve o'clock.

Examined by the Court.

Lord Cathcart.—Did Colonel Burne go with you to the Tauros?

A. He followed me sometime afterwards; I left word for him, I was going to retire, and he followed me there.

General Norton.—At what time of the day, did it appear to you that there was any prospect of success?

A. I should say, undoubtedly, as early as ten o'clock.

Judge Advocate.---Having with your column reached the river, state what reasons you had for thinking at that hour that all chance of success was over?

A. The enemy were greatly superior to us in

numbers, that was visible from the first; they were better protected from our fire, than we could possibly be from theirs; they were also in possession of a numerous artillery, and we had not a single gun with us.

General Norton.—Can you tell, or nearly so, the distance from White's house to the Recolita.

A. It is impossible to speak with any precision, as I never was at the Recolita, but it appeared to me by the eye to be about two miles.

Q. Can you tell the distance from White's house to the Chieulo, and the nature of the country, whether woody, open, or enclosed?

A. From the nearest point of the Chieulo I cannot; from the Chico pass, where we crossed, I conceive it to be about four miles. The country much enclosed, from the moment we ascended the heights.

A Member.---Might not the roads leading from the country to Buenos Ayes, between White's house and the Chieulo, either have been occupied by the British troops, or broken up and rendered impassable, so as to have prevented any supply of provisions being brought in that direction into the town?

A. I should conceive they certainly might.

Sir John Moore.---Having stated that the enemy were greatly superior in numbers, do you mean they were greatly superior in numbers to your brigade only, or to the whole army?

A. I can certainly only speak with respect to my own brigade, I could only form a judgment from the numbers I saw in the streets, and on the walls of the fort, on the side on which I was.

Q. Do you mean to apply that which you have just said as to the chance of success, to your own brigade also?

A. Certainly, separated as I was from the rest of the army, I could only judge of my own brigade.

A Member.—Of what description were the enemy's troops opposed to your brigade; were they regular troops, or the armed population of the town?

A. They were of every description, from the original Spaniard down to the black; some of them were clothed in uniform, others not.

Q. Were you consulted as to the treaty?

A. On the 8th of the month, I was sent for by the commander of the forces (I think it was the 8th or 9th, I will not be certain which of these two days), to be consulted on certain points connected with the treaty; with respect to the treaty itself, I did not consider myself consulted.

General Dundas.---What was the state of the troops, after the failure on the 5th of July; was it such as might have enabled them to undertake any farther operations against the town of Buenos Ayres.

A. The troops were then certainly badly clothed; they were without either their blankets or great coats, though covered over head, they were still exposed to the night air, which was more than usually severe; my brigade had also now been four days, almost entirely without meat, and had received but a very small portion of biscuit, previous to, and during that period; but undoubtedly a good meal or two, which we had then the prospect of obtaining, would certainly have rendered them equal to any duty, were long marches were not likely to take place.

Q. Do you conceive they were equal to further operations against the town, or not?

A. Yes; I conceive they were. I do not mean to say that, on the night of the 5th, they were equal to further operations: subsequent to the 5th, I conceive they were.

A Member. Do you conceive that the force sent against Buenos Ayres was sufficient for the reduction of it?

A. I certainly do conceive it to have been fully sufficient.

The witness withdrew.

Lieutenant Colonel ROBERT BURNE, sworn.

The third charge was read.

Examined by the Judge Advocate.

Q. Did you accompany the right wing of the 36th regiment, on the morning of the attack?

A. I did.

Q. That wing was under your command?

A. It was.

Q. State what passed from the time that you were detached from Brigadier General Lumley, till the time that you rejoined him again at the Plaza del Tauros.

A. I was not detached any time; I was with General Lumley the greater part of the time.

Q. The court wish to know what passed during the time you were detached from him?

A. The time I was absent from the right wing of the 36th, I went to take possession of two guns brought out of the citadel.

Q. State what passed in the interval during which you were detached from him.

A. I ordered in the first instance, a party to charge these guns, having reported to Brigadier General Lumley that they must be taken; this party not proceeding immediately, which was owing to the captain of grenadiers and his subaltern, being both wounded by a discharge from one of those guns, (I do not recollect whether it was by General Lumley's

immediate orders or not) but I then took a small party from those under General Lumley, and went and took both these guns, the largest of which I spiked myself: this was very near the citadel, close under the citadel. The enemy soon after this (when their own people were out of the way, whom I drove into the citadel) began a very heavy fire of grape and musketry upon us; upon this I took my men under cover, which was close to where the guns were taken, at the back of some houses where they could not reach us in the citadel; after staying some time in that situation, I was ordered to retreat, to bring off my party and follow the 36th, which we could see from the position I was in going up the beach. I then joined Sir Samuel Achmuty's division at the Plaza del Tauros, agreeably to orders I had received.

Examined by the Court.

Lord Cathcart.---How was the 36th regiment victualled on the 4th of July?

A. On the 4th we had a great deal of skirmishing in the suburbs of Buenos Ayres; we were not relieved till between eleven and twelve o'clock at night: we did not get to our quarters where we had slept the night before till that time. The meat was ready for the men in their quarters, but from having to light their fires and to cook it, it was reported to me it was near two o'clock in the morning before the men had any thing to eat, after which their usual quantity of wine was served to them.

Q. How were the provisions on the 5th?

A. To the best of my recollection, after we joined Sir Samuel Achmuty's division, we got meat in the afternoon; there were bullocks in the Plaza del Tauros, which were taken out and killed. I am sure they got meat there; the officers were served at the same time on the evening of the 5th.

Q. Can you state the casualties of the 35th regiment on the 5th of July?

A. From what report we could collect on the 5th, I think it was two officers and 24 rank and file killed; the wounded I do not recollect. This was only what we could ascertain on the 5th; but we afterwards ascertained that there were a great many more; that two Captains and a Subaltern, and sixty men were killed.

Sir John Moore.—What do you think was the number of the enemy protecting the two guns you charged, and what was the strength of the detachment of the 36th, with which you attacked them?

A. I cannot speak positively; but there might be two or three hundred, perhaps three hundred of the enemy. My party might be about fifty men; I do not think I could have had more.

The witness withdrew.

Lieutenant Colonel ALEXANDER DUFF sworn.

The third charge was read.

Examined by the Judge Advocate.

Q. Did you command the right wing of the 88th on the morning of the attack?

A. I Did.

Q. State the operations of that wing during that day.

A. I shall commence from the period of our getting under arms for the assault. I think it necessary to state to the Court, I found myself so weak that I did not conceive I should be able to attain the object I was directed to; I sent to head-quarters, and requested to have two of my companies out of the three that were there, in order to strengthen me. To my utter astonishment, those two companies joined us without flints in their arms, just as I was moving off.

I interrogated Major Ironmonger, who commanded these companies, and I directed him to give me some reason for their appearing in this manner without flints. He intimated to me that General Gower had directed him to take the flints out. I immediately ordered Mr. Ironmonger to get flints from the other companies, if they could spare them; but I am sorry to say, the whole of them did not get flints. Mr. Vandeleur, who commanded the left wing of the regiment, reported to me that two men actually fell in the act of putting in their flints.

Q. Where did they fall?

A. In the streets, after we advanced to the attack. Perhaps it would be proper I should state to the Court, that I had so bad an opinion of the attack in my own mind, that I left my colours at head-quarters, fearing that they might be taken, according to the spirit of the orders which I received. I divided my battalion into two wings, each wing consisting of about 225 rank and file; I perhaps may not be quite correct as to a man. I directed Mr. Vandeleur to lead his wing to the spot that General Lumley ordered me to do, and to penetrate as near to the principal defences of the enemy as he possibly could. Mr. Vandeleur penetrated as far as the river, where he was galled.

Judge Advocate.—I should rather suspect you were now stating a report you received from Major Vandeleur, and not what you saw yourself.

A. Exactly so.

Judge Advocate.—I am now enquiring into the operations of your own wing, of which you were at the head.

A. After giving Major Vandeleur these orders, I led my own wing to a church that I had orders to take possession of by General Lumley. I met with no opposition or no fire, till I entered the gateway. Immediately on getting into this gateway, the enemy com-

menced a tremendous fire of musketry from the opposite houses. Having lost nearly thirty men in this gateway, and finding it impracticable to break the church doors open with the implements that were given me, I deemed it prudent to leave this situation, and penetrate the city further, in hopes of gaining a more advantageous position. On leaving the gateway of the church, we were assailed with a continued fire. After leaving the gateway, I penetrated the city until I conceived that I was near the citadel. Finding that I lost so many men in the streets, the four Grenadier Officers being wounded, the Major, the Adjutant, the Assistant Surgeon killed, and having lost, in killed and wounded, out of my small column, from 80 to 100 rank and file, I defiled to my left, and took possession of three houses. I formed my men on the tops of two of these houses, agreeable to the spirit of the order which I had received. After having maintained this position about four hours, finding that I lost a considerable number of men on the tops of these houses, two of my officers being wounded, the enemy forcing me in all directions, and hearing no firing on my left, I naturally concluded that the left must have retreated, as I received no support. After assembling the officers, and taking their opinion on the subject, I deemed it prudent to accept the enemy's terms to surrender, on the proviso that they treated my men and officers as they ought to do. On being marched prisoners to the citadel, I rejoiced to find I had saved the men's lives, as I found I was surrounded on all sides by at least from three to four thousand armed people. On entering the citadel, I found that Major Vandeleur had been compelled to surrender about half an hour before me. As far as my recollection carries me, out of this small detachment, for I can hardly call it a regiment I lost about 220 killed and wounded, and 17 officers. As far as my recollection goes, I have detailed all the

operations of my wing. I may have forgotten some circumstances, but those are the whole of the material circumstances, certainly.

Q. At what hour, as far as you can remember, did you surrender?

A. About a quarter before twelve.

Q. From the period of your marching to the attack till the time of your surrender, did you, or did you not receive any orders from, or have any communication with, Lieutenant General Whitelocke?

A. I did not; and, in my own judgment, it would have been hardly possible for any officer to have communicated with me, the firing being tremendous. I think he would have fallen in the attempt. I left the firing behind me, and I think any officer approaching me would, in all human probability, have fallen.

Sir John Moore.—I think the latter part should not be put down, for though one officer or two might not have been able to bring a communication, yet if a party had been sent, it might have been conveyed. Every man who went there was not killed, for Colonel Duff was not killed. It would be better to give a direct answer; all that reasoning can be of no use.

A. I wished to state the reason together with the fact.

Judge Advocate.—If you had the means of reporting your situation to Lieutenant General Whitelocke previous to your surrendering, should you have known, from any orders you had received, where he was to be found during that day?

A. No; I should have sent to the Miserere for General Whitelocke, according to my own ideas; and I will give my reason, because I had a company left at head-quarters.

Cross-examined by General Whitelocke.

Q. Should you not have reported, as matter of course, to head-quarters, if you could not have communicated to your Brigadier General?

A. Certainly I should have done so.

Examined by the Court.

General Dundas.—What had been done with the flints which had been taken out of the pieces at head-quarters? Were they not put by in the pouches, or had they no spare flints?

A. I really cannot say what had been done with the flints taken out of their arms; but if they had obeyed my orders, they ought to have had spare flints. In my opinion they had not.

General Whitelocke.—State when the flints were taken out, and whether you know that Lieutenant General Whitelocke had any knowledge of it.

A. Major Ironmonger stated to me that when the companies were about to march from head-quarters, or on their way from head-quarters, Major General Gower had directed him to take out the flints of the two companies under his command. I really cannot say that they were ordered to be taken out by the directions of Lieutenant General Whitelocke. I rather think not.

Q. Was that on the morning of the attack?

A. Yes, it was.

Sir John Moore.—You have said that you would have reported of course to head-quarters, had you not been able to report to your own Brigadier. Do you, then, suppose that when an army advances to action, the post of the commanding General is in the rear, at head quarters?

A. I will give my opinion as far as I can. It is a question of opinion.

Sir John Moore.—The question does not relate to the opinion of the witness at all, but to his reason. He must have had a reason; he says he would have reported there.

A. The reason why I would have reported to head-quarters was, that I had left one company posted there.

The witness withdrew.

Major RICHARD VANDELEUR sworn.

The third charge was read.

Examined by the Judge Advocate,

Q. Did you command the left wing of the 88th regiment on the day of the attack on Buenos Ayres?

A. I did.

Q. State the operations of that wing from the period of your separation from the right wing, till the time when you were compelled to surrender.

A. About five o'clock in the morning Colonel Duff desired me to move with three companies, which was one half of the regiment which was then present, to Brigadier General Lumley's house, which was about an hundred yards to the left of the regiment, and to report to him my arrival, and his being under arms with the remainder of the regiment, which order I executed. Shortly after, another company joined me. General Lumley, in about half an hour afterwards, desired me to move the front as far as the advanced picquets, and there wait till the signal guns fired. I asked Brigadier General Lumley whether he had any particular orders to give; he asked me whether I had read the detail that was already given, which was, that I was to penetrate through the street to the water's edge, or as far as I could, and there lodge myself to the best

advantage; but that I was to be particular that I did not allow any firing. I particularly requested him to give me some information relative to the mode of defence of the enemy, or what opposition I was liable to meet. He replied, that he knew no more than I did, but that it was particularly necessary that I should, if possible, gain the bottom of the street.

Adjourned till to-morrow morning, ten o'clock.

TWENTY-SECOND DAY.

FRIDAY, FEBRUARY 26, 1808.

The Judge Advocate read to the Court a letter which the President had received from General Cuyler, stating that he had been very much indisposed for the last several days with a cold, which had so much increased as to prevent his attendance.

The Honourable Brigadier General LUMLEY called in again.

Judge Advocate.---I have been informed by Brigadier General Lumley, that there is one circumstance in the evidence he gave yesterday which is not quite correct, and that he wishes to set it right.

The Judge Advocate read, beginning “What was the state of the troops after the failure on the 5th of July,” *ending* “likely to take place.”

Brigadier General Lumley.---In that evidence I committed an error, which at the time I certainly was not aware of, and it is by no means my wish to make the situation of my brigade appear more distressing than it really was. In answer to a question put to me, I stated that my brigade had been almost four days without meat. As far as relates to the 88th regiment, I believe my statement to have been perfectly correct. I know also, so late as eight or nine o'clock on the night of the 4th, that the 36th regiment had had no meat that day any more than on the two preceding ones. Having been detained at the outposts, and on other duties, for some time after

the 36th had been sent from thence to their cantonments; I was not aware, which I believe now to be the case, that that regiment had cooked some provisions during the night. On my arrival at the Retiro I no longer had any particular brigade. I was specially directed by Sir Samuel Achmuty to take the superintendence and direction of the outposts, assisted by the field-officer of the day; a duty of the most serious importance, and which required the utmost vigilance. Sir Samuel himself gave directions with respect to the provisioning of the troops.

General Dundas.---The question was a question with respect to the general state of the army, and had nothing at all to do with the provisioning of the troops.

Judge Advocate.---The former part is a correction of a mistake which General Lumley had made in his evidence of yesterday, and therefore so far may properly be inserted in the minutes.

The witness withdrew.

Major VANDELEUR was called in and continued his narrative.

On the arrival of the column at the advanced pickets, I divided it into sections of seven files in front, being the utmost space they could occupy. After explaining the orders I had received to the officers and men, and directing Captain Chisholm to take the command of the rear section, and to act according to circumstances in the streets, at about half past six o'clock one of our dragoons came up to me, with orders from General Lumley immediately to move down that street directly in my front. I immediately ordered the column to advance into the town. After I got a little way down the street, two of the enemy's bidettes appeared in the front,

and as I advanced they retreated down the street, occasionally looking up, as if speaking to people on the tops of the houses. On my arrival, about a third (I cannot say exactly the distance) down the street, a fire opened on me from the tops and windows of the houses on each side directly over me, I immediately ordered the column to advance double quick time, which was immediately executed, and answered by our men by cheering. As we advanced through the streets we were continually assailed from the windows, on both sides of the street, with musketry, hand grenades, stink pots, brick bats, and all sort of combustibles. When we arrived at the last square of houses in that street, there was a breast-work thrown up directly across the front, made of bags of hides filled with earth. On our ascending this breast-work, on the opposite side we descended into a ditch of about six feet deep and twelve wide, likewise cut across the street. I hurried the men out of it as fast as I could, the four corner houses being occupied by the enemy and flanked with cannon from the grand square. On my getting out of the ditch, I found the street terminated in the descent to a wall, and a small slope leading down to the flat of the river, and in front of the western face of the citadel, from which the enemy immediately commenced a fire on us. With the assistance of some men, with the butt ends of their firelocks, we with difficulty forced a large door of the right bottom corner house, and on its being opened we entered into a small square, in which there were four small habitations, consisting of one room each. I directed the house on the opposite side also to be broken open. Being excessively galled by the fire, I directed the men to shelter themselves as well as they could, and, as an inducement, held out that they would soon be supported. I endeavoured to get men on the top of the roof of the first house which we occupied, the house on the right of the street; it being of loose tiles, and

sloping, with a parapet wall built round the top of it, I found it perfectly impossible, as the other side of the parapet wall was occupied by the enemy, so that every man who attempted it was instantly knocked down. Some of our men occupied the opposite house, on the left of the street going down; it being higher than that which I occupied, was exposed to the fire of the citadel, which soon obliged them to leave it. They brought a field piece down from the grand square to the ditch, which was fired at that house; and some of our men who lay concealed in the ditch firing at them, they immediately abandoned it, but soon returned, and loaded and fired it again: our men returning the fire, the enemy again retreated; and I was informed by Captain Chisholm, who was in the ditch, that they left three killed. The houses which I occupied on the right of the street, the back of two of them being entirely knocked down by the enemy, I was obliged to move all the wounded and other men into one place. After maintaining this position till about a quarter before eleven o'clock, I consulted with the officers (the captains) what could be done, as there was no appearance of any of our own forces, nor could we hear any firing but what was directed to ourselves. Having so few men left, and a retreat appearing entirely impossible, or even if it was possible, that so many officers and men lying about wounded, it would be a breach of humanity, we therefore agreed to enter into a parley with the enemy: on which I immediately directed a white handkerchief to be held up. Immediately a Spanish officer jumped up from behind the wall at the top of the house; and it being interpreted by Captain Carrol that we were willing to surrender upon terms, he immediately asked, what terms? On which I replied, that we only required quarter and the care of the wounded. He immediately put his hand to his breast and replied, that they were Spaniards, and always treated their prisoners with

humanity; on which terms I agreed, and he required my sword. The Spanish officer gave a shout, and an immense number of the enemy, who lay concealed, immediately jumped on the top of the house, over the wall, and received the arms of the men; after which they conducted the officers into the citadel, and the men to separate prisons.

General Whitelocke.—I shall have several questions to ask Mr. Vandeleur, by and by, in my defence; but I have none at present.

The witness withdrew.

Brigadier General CRAUFURD called in again.

The third and fourth charges were read.

Examined by the Judge Advocate.

Q. Will you continue your narrative from the period at which it was broken off, namely, the close of the 4th of July, till the signature of the treaty?

A. In the written disposition which I received for the attack of the town, it was directed that my brigade should enter it on our right of the centre, in two columns, the left column to consist of five companies of the light battalion, and four of the 95th, making about 600 rank and file, and the right column of four of the light battalion, and four of the 95th, making about 548 rank and file; the left column to receive its orders from Lieutenant Colonel Pack, and the right from myself. We were directed to penetrate, if possible, quite down to the river, and there to occupy any of the high buildings as near as possible to the market-place. The brigade being formed early in the morning on the two roads which had been pointed out for the columns to enter upon, I began to advance with that under my orders, as soon as the signal guns were fired in the centre. The enemy, as it had been reported at head-quar-

ters on the 4th, had concentrated their principal force in a position forming a square, having within it the market-place, and the fort in the middle of its eastern face; and as we entered the town on our right of this position, the left column of my brigade, under Lieutenant Colonel Pack, was of course the nearest to the south face of the enemy's position, and came first into action with the right column; passed quite through the town, and arrived with the head of it on the beach, without meeting with any obstacle, or seeing any thing but small straggling parties of the enemy. When I arrived on the beach, I saw the south-east bastion of the fort at the distance of about 450 yards from me, as nearly as I could judge; and being of opinion that by remaining where I then was, I should not have fulfilled the object of the disposition, I determined to advance upon the fort. I knew that the 45th regiment was directed, by the written disposition, to enter the town by the two streets immediately on my right. The regiment was not placed under my orders: the disposition did not state that it was to go the Residencia, nor had I been informed that Colonel Guard had received any verbal order to that effect. I supposed, therefore, that the 45th was all that time close upon my right; and at the time I determined to advance along the beach towards the fort, I sent my Brigade Major Campbell to order Lieutenant Colonel Guard to advance in the same direction with the 45th regiment, by the street which is nearest and parallel to the beach. I had not gone far before I met Lieutenant Colonel Pack, who had already made a very vigorous, but unsuccessful, attempt to penetrate through the enemy's principal position. From what Colonel Pack had seen, and his general knowledge of the town, he was induced to urge me to go the Residencia, which is on the extreme skirt on the south side of the town. This was between seven and eight o'clock in the morning, and although I had the greatest possible confidence in Colonel Pack's qualities as an officer, yet I did not

think that I should have been justified in retreating at this early hour to the Residencia, which I certainly, at that time, might have effected without any loss or difficulty whatsoever. This conversation passed close to the convent of St. Domingo. I asked Colonel Pack whether this was not the Convent of St. Domingo; and, upon his informing me that it was, I told him that that was one of the posts which I had always considered it to be intended for me to occupy. At this time I was joined by Lieutenant Colonel Guard, with the Grenadier Company of the 45th regiment. I told him that I should take possession of it in the mean time, in the hope that the success of some other attack might enable me to advance still further; and in my opinion of the propriety of so doing I was confirmed by that of the truly brave Major Trotter; and I little thought when I thus, to the best of my judgment, obeyed the orders I had received, that I should be abandoned, without any effort of any sort being made to communicate with me. I had been directed to take certain posts and there to wait for further orders; and this was one of those posts. Almost immediately after we took possession of this building, which was very close to the enemy's main position, a considerable fire was directed from the surrounding houses against all those parts of it from which we could annoy the enemy; and the roof of it not being flat, it consequently was not so advantageous as the buildings of the town in general are. Until near twelve o'clock, I had no reason to suppose that any considerable disaster had befallen any part of our army; and when about this time a Spanish officer with a flag of truce approached the Convent, I flattered myself that the other columns having established themselves as near to the enemy's position as I had done, General Liniers was disposed to capitulate, and that it was for the purpose of communicating some such intention to the Commander in Chief that he had sent this officer to me. When he came into the court of the convent, he in-

formed me that the 80th regiment, and some other corps, which he did not name, were taken prisoners; that all our attacks had failed, and that he was charged by General Liniers to summon me to surrender, which I peremptorily rejected, and the officer went away without any further conversation passing. The circumstance which I have just related, as well as that of my having been upwards of four hours in this post without any one coming near me, made me think that it was a situation in which it was not adviseable to remain. I determined to take the first favourable opportunity of extricating myself from it, conceiving that the best opportunity would be that when the enemy should approach in considerable numbers in the streets, as we, by mixing with them, might, in that case, render less effectual the fire from the surrounding houses, which were by this time all completely occupied. Between twelve and one o'clock a considerable column came in the street on the west side of the Convent, apparently with an intention of taking a three-pounder, which was standing in the street, and which, from the narrowness of the entrance, we had not been able to bring in. I immediately ordered all the rifle corps to come down from the different situations in which they were placed in the upper parts of the building, and likewise took down the colours of the 71st regiment, which having found in the church on our entrance, we had displayed on the top of it; and whilst I was preparing for evacuating the post, the enemy, being on the point of seizing the gun, were attacked with very great bravery by the grenadier company of the 45th regiment, headed by Lieutenant Colonel Guard, and a small party of light infantry, with Major Trotter at their head. The enemy first gave way, but the fire from the houses close to the Convent was such, that about forty men of the 45th, who led the attack, were killed or wounded in the space of two or three minutes. Major Trotter was also killed; and seeing that it was impossible to do any thing, I ordered the remainder to return into the

Convent, which we continued to defend till about half after three o'clock. After the attempt to evacuate it, which I have just described, I was fully convinced that we were unable to extricate ourselves by our own exertions, and as not long after this it appeared that the firing had ceased in all other parts, and none of our own troops coming near us, I concluded of course that the attack had generally failed. About half an hour before three o'clock, I assembled Lieutenant Colonel Pack, Lieutenant Colonel Guard, and Major M'Cleod, who commanded the detachment of the rifle corps. I told them that in my opinion a retreat was utterly impossible; that it was completely in the enemy's power to annihilate the remainder of the brigade, we being then somewhere about 600 men, in the very heart of the town; out of which it was clear to me that all the rest of the army had been obliged to retreat. In these circumstances, having waited about eight hours in a post which I had been ordered to occupy, in expectation of those orders I had been taught to expect I should receive, I did not think that the sacrifice of those that remained was necessary, either for the honour of his Majesty's army, or could be of any advantage; but I added, that although I should feel myself justified in acting upon my own opinion only, yet I should do nothing with a view to putting an end to the action, unless I had the entire concurrence and sanction of those field-officers whom I have named, they being the only ones in the Convent who acted as such. There was a Brevet Major, whom I did not consult. After mature deliberation, Lieutenant Colonel Pack and Lieutenant Colonel Guard did positively and unequivocally give it as their opinion, in concurrence with mine, that our situation was such as fully justified me, and made it adviseable that I should hold out a flag of truce, for the purpose of putting an end to the action on the best terms I could obtain. Lieutenant Colonel Holland (who was on the staff of the army, and had been Deputy Quar-

ter Master to my detachment), who was present, was not consulted by me; my reason was, that he was my brother-in-law. Major M'Cleod, of the 95th, when I first asked his opinion, appeared to hesitate, from which I thought, at first, that he possibly was of opinion we could extricate ourselves. If I may interrupt my narrative, I would say, that I suppose as to the point of the necessity of the surrender, it will be considered as essential to know whether the opinion was unanimous. I trust, therefore, the Court will call in Major M'Cleod.

General Harris.—It cannot be supposed you are implicated here.

A. It is essential to shew that the opinion was unanimous, which I positively swear it was. I then said, Major M'Cleod, if you think that we can get out of this place, although I do not think so, I will, at this moment, place myself with you at the head of the column, and we will be the first to lead it out. Major M'Cleod did not accept this proposal, but did concur in opinion with the other field officers. A flag of truce was in consequence held out; but as the enemy had several times, in the course of the day, approached with flags of truce merely for the purpose of enticing us out, and then fired upon us, our people, after this, naturally fired upon their flags of truce, so that it was for a considerable time after we displayed it, for the purpose I have mentioned, before they took any notice of it. At length an officer came, with whom I had a conversation in the presence of Lieutenant Colonel Pack, and, I believe, of Lieutenant Colonel Guard; and finding that no other terms could be obtained, I thought it my duty to surrender the remainder of my brigade as prisoners of war. It will, perhaps, be material to state the number. The number who surrendered I believe to have been about 600 rank and file. My division, on entering the town, consisted of about 540. Lieutenant Colonel Guard brought with him

somewhere about 100; and the number of Colonel Pack's division which joined me, was, I think, about 70, from the best information I could get from the Brigade Major. The number of killed and wounded I cannot exactly state; but of the latter, we left, I believe, nearly 100 on the floor of the Convent, so severely wounded as to be unable to come out. To save time, I would merely ask the Court whether they think it is material I should state the conversation which I had with General Liniers after I came into his house, on the subject of the convention?

Judge Advocate.—If Brigadier General Craufurd can state that that conversation was communicated to Lieutenant General Whitelocke previous to the treaty, I conceive he may state that communication; but if he has no means of knowing that the substance of that conversation reached Lieutenant General Whitelocke, undoubtedly it is no evidence applicable to these charges, and therefore ought not to be received.

A. I do not know that it was. General Liniers told me what he was going to propose, and asked me whether I thought it would be accepted, and I told him I thought it would not. I have no means of knowing that it ever was communicated to Lieutenant General Whitelocke. There is another circumstance, which will take up but a short time, which I suppose it is essential for me to mention, to prove that nothing which I said to General Gower, before the convention was entered into, with respect to the situation of the prisoners, could possibly be the motive for entering into it.

Judge Advocate.—I submit to the Court, that what passed between Brigadier General Craufurd and Major General Gower is evidence, under these circumstances, that it must have passed in consequence of Major General Gower coming into the town with a flag of truce, to negotiate a treaty, under

the express orders of Lieutenant General Whitelocke. Major General Gower was therefore acting for Lieutenant General Whitelocke; and it is impossible not to be convinced, that whatever conversation passed between Brigadier General Craufurd and Major General Gower, must have been reported to Lieutenant General Whitelocke, on the subject of that treaty. If the Court have any doubt upon that point, it will be very easy, when Brigadier General Craufurd has stated what it was, to call Major General Gower, in order to know whether it was stated to Lieutenant General Whitelocke, or not; but at present it stands, that Major General Gower was the negociator of that treaty, under the express orders of Lieutenant General Whitelocke: and therefore I take it, that any information which Brigadier General Craufurd communicated to Major General Gower is admissible upon these charges.

A. After our surrender, we were taken into the fort. On the afternoon of the 6th, Major General Gower came into Liniers' house, where I then was. He came into the room where we were dining with General Liniers, and in which I had no opportunity of saying a word to him, except what was heard by all those at the table; nor did I then say any thing of the smallest consequence. He afterwards went with General Liniers into his own apartment, and before they entered upon business, I thought it my duty to take the Major General aside, and tell him privately that, from what I had observed I was quite convinced that if the army attacked again in the same way they had done on the 5th, they would be completely defeated. Not another word passed between us until some hours after this, when Major General Gower sent for me to come to him into Liniers' room; and when I came there, the articles of the convention, or at least a paper, which certainly contained the articles of convention drawn up, was lying on the table, and persons were employed in co-

pying it. I think it material to state this, in order to shew that the convention was agreed upon before any thing passed from me on the subject of the prisoners. Something did pass afterwards, which I will mention.

The Major General told me that General Liniers was receiving frequent reports of great cruelties committed by our soldiers, which kept their people in a state of great irritation, which might produce serious consequences to the prisoners in their power; to which I replied, that I believed, and I do now believe, that so long as that irritation was kept up by such reports, there was reason to apprehend that the prisoners were not safe.

The Major General desired me to go with General Ellio, with an order which he had written, to Colonel Nicholls, at the Residenciary. I said I did not consider that a Brigadier General in my situation was a proper person to go with a written order; but if he wished me to go with it, I would go, and did go. I think there certainly was danger: one of the people proposed to put me to death.

Sir John Moore.—I understand Brigadier General Craufurd to state that he considered there was danger to the prisoners. If I understand right, that was, from misconduct reported to have taken place on the part of the 45th regiment in the Residencia; and that, in order to put a stop to those reports, General Craufurd, by General Gower's desire, and by General Liniers' permission, did go to the Residencia, to put a stop to it; therefore it appears necessary to finish the statement.

General Craufurd.—I would beg leave to state, that I believed that as long as that irritation was kept up, there was danger of the prisoners being put to death. Major General Gower wrote an order upon this subject, and asked me if I would accompany the Spanish General Ellio to the Residencia, in order to deliver this order to the officer commanding there,

which I did. I do not know whether it is necessary for me to mention any of the circumstances, which induced me to believe that that danger did exist; one of which was, that whilst we were at dinner at General Liniers' table, a great mob came into the house, and wanted to take out Colonel Pack, to massacre him; another was, that, while I was going to the Residencia, I knew enough of Spanish to understand some of the people to propose putting me to death; they talked about flags of truce, and said the laws are equal, they kill our parliamentaries, and we will do the same; another was, that, while I was walking in the street with a Spanish officer, a Spanish soldier took up his fire-lock, and was going to fire at me; another, that they came round the house where the officers were confined, and the Spanish officers, I believe, without any trick, used to shut the windows, and say, that they really believed that the people would fire into the house; several of those circumstances occurred, which induced me to believe, which I do in my conscience, that that danger did exist.

Sir John Moore.—General Craufurd's assertion that the danger did exist, was quite sufficient without his reasons; but I should conceive he should state the cause also.

Judge Advocate.—I shall not object to any part of the evidence Brigadier General Craufurd has given upon that point, but I conceive the whole of it to be totally irrelevant to those charges, and that if the treaty is what the charges profess in other points, Lieutenant General Whitelocke cannot by any possibility defend himself on the ground of that danger. I shall not, however, for one, object to any evidence of this kind, which the court may think proper to receive; but having a most decided opinion upon that point, it is impossible for me to give any opinion whether any part, or the whole of that evidence of Brigadier General Craufurd ought to be taken on

the minutes. I having the opinion I have stated, on the whole, if any member of the court thinks differently, I have no difficulty in stating that if they think this danger, if made out, is a defence for Lieutenant General Whitelocke for entering into the treaty, the facts stated by Brigadier General Craufurd are so important, and therefore ought to be taken down.

General Harris.—I would suggest whether it should not be taken down, that General Craufurd was of opinion there was danger.

The statement on this head by Brigadier General Craufurd was read.

General Craufurd.—I beg leave to add, that I am convinced that the Spanish officers had sufficient command over their people to prevent the slightest risk of any such thing happening if this cause was removed, that is to say, if the army for instance had been a mile and a half from the town.

Judge Advocate.—I have this paper put into my hands by Lieutenant General Whitelocke. Lieutenant General Whitelocke does think it material for his defence, and therefore desires that the evidence may remain; I have only to say on the other hand, that I shall not object to the evidence remaining, if the court think it fit; but I am bound to make this protest, lest by permitting it to remain without giving any opinion of mine upon it, it should appear that I thought the evidence relevant. If the court think it material it should remain, I have no further objection.

Sir John Moore.—Is it intended to erase any thing which is put down?

General Harris.—I do not think that any thing should be erased, the only question appears to be, whether any thing further should be added.

General Whitelocke.—I am satisfied with what is put down.

General Craufurd.—I only wish it to be clearly understood that my opinion is, that no danger would exist in the slightest degree if the cause had been removed; if the army had been removed.

General Norton.—Was not the effect of this order, to remove all cause of objection?

A. Yes, as far as it could be removed.

The evidence of General Craufurd was read over, and the following corrections made. After the words, "I know that the 45th regiment was directed by the written disposition."

General Craufurd.—As probably the written disposition will be laid before the court, I would state that this particular detailed division of my brigade, was contained in the disposition I first received on the morning of the 4th; about two hours afterwards I received another, which of course cancelled the first in the particulars, in which they differed, but as it did not say any thing as to the divisions of my brigade, I thought it did not leave me at liberty to make any alterations. I think it necessary to state this, so that if the court should see the original disposition, and not find that included, they may know how it was that I came to state it; that which I have stated, with respect to the high buildings, was also contained in the first order I received.

After the words, "I do not think I should have been justified in retreating at this early hour to the Residencia."

General Craufurd.—I am quite sure the court will not conceive that any thing can be further from my intention, than to make any reflection on Lieutenant Colonel Pack; there is no officer in the

army I respect more, and most bitterly I repented I did not take his advice.

After the words, "the enemy in the street gave way."

General Craufurd.—The court will infer from what I said, that the entrance was so narrow we could not get a gun in, that we were obliged to go out only two men abreast, and that with the fire upon us on the other side; the whole building consisted of wooden doors, but that was in the very teeth of the enemy's principal position, and to have opened that, would have been the height of madness; on this side we were obliged to defile two men together.

After the words, "other field officers."

General Craufurd.—I suppose it is unnecessary to enter into detail, to state my conviction, in which, I believe, the other field officers will confirm me, that the only effect of our attempting to go out then would have been, that the first forty or fifty men who attempted it, would have been killed, and that the consequence would have been, that the others would not have followed them; I do not know whether it is necessary to enter that.

General Harris.—I should conceive it is not by any means necessary.

After the whole of General Craufurd's evidence was read.

General Craufurd.—I beg leave to mention one circumstance; I have stated, that not long after the attempt we made to evacuate the Convent, the firing had ceased every where. I hope I may be allowed to state, that I have seen a report made at the time, when people would recollect more accurately than now perhaps; an official report made by Brigadier General Lumley, stating, that he joined Sir Samuel Achmuty at the Tauros, about two o'clock. I do not

know what Brigadier General Lumley may have stated since, but he may have stated the hour perhaps more accurately then, than he may have done now, and the report itself, might perhaps be produced in evidence; he states, that he joined Sir Samuel Achmuty at two o'clock, so that by two o'clock, every man who had entered the town, was either taken a prisoner, or had retreated to some situation. I called together the commanding officers of corps to consult them, Colonel Holland I did not consult, there was a Brevet Major of the 95th there, but he acting only as a Captain, I did not think it necessary to consult him. The Adjutant General has stated to me, what is very proper, that my reason for not consulting Colonel Holland, should appear on the minutes, or it may afterwards be to his disadvantage. I would insert, "Lieutenant Colonel Holland, being my brother in law, I, out of delicacy, did not chuse to ask him for an opinion, as I might afterwards have occasion to make use of it in my own justification." I consulted only the commanding officers of corps.

Judge Advocate.—You have stated, that you reached the beach on the morning of the 5th, without meeting with any obstacle; do you think that the co-operation of the navy, at that time, would have been of considerable avail in securing the success of the attack?

A. That must have depended upon the depth of water. I do not know whether the ships could have approached near enough.

Q. If they could have approached near enough, would they have been of considerable use?

A. Undoubtedly, if they could have approached near enough, which I am ignorant of; if the ships of war could have approached near enough to have fired with effect, they would have been of considerable use.

Q. I apply my question to the gun brigs and gun boats.

A. If the gun brigs, or any considerable number of gun boats (not the two or three I afterwards saw firing) could have approached near enough to fire with effect, their co-operation would no doubt have been very useful.

Q. Did any gun boats approach the town after you were taken prisoner; and if they did, what effect had their fire upon the town?

A. Two or three gun boats did fire upon the town on the morning of the 6th; some of the shot went through Liniers' house, in which I was, or struck the house: but, of course, the fire of so small a number of guns could not produce any material effect; and, I was going to say, I should suppose that they would soon have been sunk if they had continued; but I do not recollect what put an end to their firing.

Q. Was the co-operation of the fleet ever required, or did it enter at all into the plan of attack?

A. I do not know whether it was required, but it certainly did not enter into any plan that was ever communicated to me.

Q. Should you have adopted the measures you did, had you known that the Residencia was the specific object of the attack of the 45th?

A. I should have thought it my duty to occupy the post which I did occupy; but as in advancing through the town it was clear that the Residencia had no connection whatever with the enemy's position, I should have taken upon myself to prevent the 45th going there, if I had known that they were doing so.

Q. Had you any other guns attached to your

brigade besides the three-pounder which you have mentioned?

A. Attached to my column there was none; there was one other three-pounder attached to Lieutenant Colonel Pack's column.

Q. Would not the operations of the troops under your command have been materially aided by artillery?

A. I do not think that field pieces taken into the middle of the town, in the manner that we advanced into it, would have occasioned any great difference in the result of our attack. In expressing that as my opinion, I do not mean to say that cannonading the town in a different way would not have been effectual; but what I state is as to going into the town in the way we did, those which we had were of no use, there was such a firing that the men could not stand by them; the men and horses of one were all killed, and the men could not stand by them.

Q. From what you saw of the strength and means of the enemy on the 5th, are you of opinion that the necessity of your surrender would have been prevented had you received support from the reserve under the immediate command of Lieutenant General Whitelocke, or from the force under Colonel Mahon, which from your knowledge of the strength of those corps, either of them was able to have given you, had it been so applied?

A. The central reserve consisted, I understand, of above a thousand rank and file; if a part of this reserve had marched round the town to the Residencia, as from what I saw I am convinced they might have done without any difficulty, and had they from thence advanced with the 45th regiment, which appeared to us not to be at all engaged, I have not the smallest doubt that they would have extricated us from the situation in which we were.

We could see the Residencia from the top of the building, and it did not appear to us that there was any firing there the whole of the day.

Judge Advocate.—The latter part of the question, as to Colonel Mahon's corps, is not answered.

A. I do not know where Colonel Mahon's corps was; but if it was near enough to be employed for this purpose, that of course would have rendered the operation still more easy.

Q. At what hour in the day did the advantages obtained by the enemy appear to you so decisive as to prevent the possibility of your being supported or extricated from the situation in which you were, by any co-operation with such parts of the British force as had not been engaged in the action?

Sir John Moore.—It does not appear to me that General Craufurd has ever stated, that at any time of the day it appeared to him that he could not have been supported or extricated.

Judge Advocate.—I should apprehend that at the time he surrendered he so considered.

Sir John Moore.---He stated, that having waited eight hours, hearing no firing, and having received no orders, he despaired of being extricated by others, and could not extricate himself, and therefore thought himself authorized to surrender. He has never stated, that at any time it was his opinion that it was out of their power to extricate him; on the contrary, his answer to the last question states, that it was his opinion he might have been extricated.

Judge Advocate.---I wished to ask what was the time at which he considered there could be no further hopes of his being able to leave that place.

Sir John Moore.---He did not surrender because

he thought he was in that situation that he could not be extricated, but he surrendered because, having waited for some hours, he saw no prospect of being extricated, and was of opinion he could not extricate himself without assistance.

Judge Advocate.---I do not see any objection to the question: all I want is to ascertain clearly what Brigadier General Craufurd means by that part of his narrative; if he means what the Honourable Member concludes him to mean, he will say so in answer to the question, and that will be an answer.

A. I am of opinion, that the force I have above mentioned as sufficient to extricate me, might have found very considerable difficulty in doing this, after all those troops who entered the town had been either taken or compelled to evacuate it. In short, between two and three o'clock, about half past two, I am of opinion that that force might not have been sufficient for the purpose; if, in addition to these, Colonel Mahon's corps, which I understood to have amounted to 2000 men, could likewise have been brought in, I think the probability is, that they would at any time have enabled us to defile out of the Convent. I do not know whether it is necessary for me to add, that my opinion was, that after waiting eight hours, and the day drawing towards a close, something must have happened to render it impossible, by my not hearing any thing; and every moment after that the enemy had it in their power to annihilate us. The Court will of course understand, that when I say they might have found difficulty, it was by the enemy making use of the means he had in his power; they had not shewn want either of ability or disposition to make use of those means; and it is on the supposition of their continuing to shew the same ability and disposition that I give that opinion.

Q. Had you any notice during the 5th, what where the points of retreat, if retreat became necessary, or where Lieutenant General Whitelocke was to be found during that day?

A. I have in the former part of my evidence stated, what I knew with respect to the situation which the Commander-in-Chief meant to take, and also that no point of retreat was ever made known to me.

Judge Advocate.---I am aware of the former part of your testimony, but that you will recollect applied to what passed during the 4th, my present question applies to the 5th.

The question was read to General Craufurd.

A. No point upon which in case of failure I was to retreat, was ever named to me, nor did I ever receive any information respecting the situation in which the Commander-in-Chief would be to be found, further than that which I have already stated to have been communicated to me in conversation by General Gower, on the evening of the 4th. I do not know whether it may be necessary for me to add, that after I marched off my ground on the morning of the 5th, I never saw any officer of the staff of the army, except those attached to my own brigade.

Q. Was it communicated to you by Major General Gower, that Lieutenant General Whitelocke had determined to remain stationary at head quarters during the whole of the 5th.

A. General Gower told me, as I have already stated, that he should advise the Commander-in-Chief, to take his station in the morning in the Corral, where I understand he remained the whole of the day; but I certainly, to the best of my recollection, did not understand that it was their intention to

remain there the whole of the day, if any exertion was required.

Lieutenant General Whitelocke.---I have no questions to put to General Craufurd, at present.

Examined by the Court.

General Garth.---When you arrived at the Residencia, on the afternoon of the 6th, to make enquiry whether the reports given to General Liniers, of the cruelties exercised by the British army were true; did you learn that there was any foundation for such reports?

A. I was assured by Major Nicholls of the 45th, that as far as related to his regiment, there could be no foundation for them. I do not know whether it is proper for me to mention it, but as a stigma may be thrown on the British army, I should wish to say, that murders were committed, but I believe they were committed by the banditti of the Spanish force. On the 3d, or 4th, a woman and child were found murdered in a house near me, but I am perfectly convinced that the murders were not committed by the British soldiers.

General Garth.---My object is to extricate the British army from any suspicion, and therefore I should wish that to be added to the minutes.

A. My firm conviction is, that the murders that were committed, were committed by a lawless banditti, which formed a part of the Spanish force; and I told the Spanish general so, at the time when I was a prisoner, when he mentioned these reports to me. The Court will be aware, there is no inconsistency between my not believing it, and my being of the opinion I was as to the situation of the prisoners, while this irritation was kept up, for such reports might originate while our force was in

the town, which could not continue if they were out of the town.

Sir John Moore.---Is the court to understand, that you had no authority but over your own brigade, with which you were ordered to penetrate the town of Buenos Ayres, and establish yourself as near the river as you could; that having done so, your orders ceased; and that you then looked for further directions from the commander of the forces, or some other your superior, who was charged with a general superintendence of all the attacks?

A. Certainly; and even my authority in my own brigade, did appear to be in a certain degree limited in an unusual manner. I mean to state this, as proving in a more strong manner, what I say, inasmuch as my own personal situation (the court is the best judge whether this is usual) was pointed out in general orders, which also expressed, that the left column of my brigade, was to receive its orders from Colonel Pack; that struck me certainly as a thing in a great measure unusual, and after having penetrated through the town, I certainly felt myself bound to wait there as long as possible for further orders. It certainly did appear to me rather odd, that the 45th regiment was not directed to receive its orders from me likewise, as I was the only brigadier with the right wing of the army. The Court, I suppose, does not understand me to say, that my authority over Colonel Pack was taken from me, but only that my particular duty was very accurately defined.

General Dundas.---From your knowledge of the country, and the means and strength of the enemy, are you of opinion that the British force sent on the expedition to Buenos Ayres, was or was not sufficient to accomplish its object?

A. I am of opinion, that it was sufficient to take the town of Buenos Ayres, and that if after that event, it had been found possible to conciliate the

the inhabitants, we should have been there in a reasonable degree of security. I hope the Court understand, that I am not giving any opinion, as to what might have been done after the failure of the attack on the town. I will read that part of the order which respects me, there is nothing mentioned with respect to the situation of any other brigadier general but myself.

General Craufurd read the Extract respecting his column.

A Member.---Was the 45th regiment in the original plan of attack, mentioned, as placed on the right of your brigade?

A. All that was said of the 45th regiment, in the disposition which I received was this, "the 45th regiment to advance by wings, left in front, up the two cross streets beyond the light battalion," in looking over the paper, I see that the 45th is mentioned again; it does not appear material to take it down, that each officer of that division of the army was to take care that he did not incline to his right.

Q. When did you understand that the 45th regiment was sent to the Residencia by verbal orders?

A. It was after the head of my column arrived on the beach. I do not know at what time. My Brigade Major can state if the Court wish, because I sent him with orders.

Q. Did, or did not, the plan of attack, given you by Major General Gower, differ from the one you received at head quarters, on the 4th.

A. On the forenoon of the 4th, I received at head quarters two written dispositions; the one which I last received, and which was acted upon, was in some particulars different from the other; if the court think it essential to know exactly what difference there was, I could get the other by stepping into the

room where the evidences wait. I think the material difference was, as to the hour of the attack.

Judge Advocate.---I do not know what honourable member handed me up that question, but perhaps that honourable member will have the goodness to state, whether he wishes Brigadier General Craufurd to bring the dispositions.

A. To the best of my recollection, the principal difference was, that in the first, the order was to attack at twelve that day, in the other at half-past six next morning. I think that the first of the orders to penetrate into the great square, was more peremptory than it was in the second, that was left in some measure to the officer's discretion. I think it was so peremptory, that an officer must necessarily feel himself called upon to penetrate into the great square.

General Norton.---Can you tell what was the object to be obtained by the troops penetrating through the streets to the beach, when they could have reached that point without difficulty, as you have described, by marching round the town to the water?

A. The object, I conclude was—upon my word, it is very difficult for me to answer that question. I cannot pretend to say what was the object of those who made the disposition; the object, I conclude, was to engage with and defeat the enemy's principal force, which by marching round the outside of the town we should not have come into contact with. I beg that the Court will have the goodness to inform me, whether they think that the world will consider, that in this answer, I am giving any opinion as to the propriety of the disposition.

General Norton.---The question is whether you know why that mode was followed, in preference to any other?

A. I beg leave to add, I can only guess as to the intention of those who made the disposition.

General Norton.---The next question is, whether the fort was not the principal object?

A. I cannot tell; it was not pointed out to me.

Adjourned till to-morrow morning, ten o'clock.

TWENTY-THIRD DAY.

SATURDAY, FEBRUARY 27, 1808.

Brigadier General CRAUFURD called in again.

Judge Advocate.—Have you got those papers which you referred to yesterday.

A. Yes, I have.

Q. Did, or did not the plan of attack given to you by Major General Gower, differ from the one explained at head-quarters on the 4th.

A. In the forenoon of the 4th, I received at head-quarters two dispositions for the attack. I do not believe that either of them was given to me by Major General Gower; that which I received last, and which was acted upon, did in some particulars differ from the former; I have both the original papers, which were put into my hands at head-quarters, now here; shall I explain to the court in what particulars they differ, or would it be more proper that I should lay them before the court? I can swear they are the papers I received officially.

Q. From whom did you receive them.

A. The first I received in an official note, from the Military Secretary; the other I received, from whom I cannot say; it is written to the best of my belief by Major General Gower himself, but I do not think I received it from General Gower, but I received it officially at head-quarters.

Sir John Moore.—Is this of any importance?

Judge Advocate.—I am not competent to answer that question, for the question, in consequence of which General Craufurd has produced these papers, is not of my putting. I am not aware what the object of the Honourable Member who put that question is. In putting it in my view of the subject, it is not by any means.

General Craufurd.—As I stated yesterday, in the first disposition I received, it was stated that the attack was to be made that day. The last order, of course, cancelled the first; but I thought that it was my duty to obey what was contained in the first order, with respect to my own brigade, inasmuch as it was not contradicted by the second. There are some details in the first which are not contained in the second; and therefore I thought it my duty, in so far as that, to abide by the first. There are other differences. I should wish it to be taken down, that the first order contained some details with respect to my brigade, which were omitted in the second; but which not being in contradiction to the general tenor of the latter, I of course considered it my duty to observe.

Q. The last orders are the circular orders.

A. Yes; the first was intended as a general order; but, in consequence of its having been represented that twelve o'clock that day was not so proper a time as the next morning, another order was given out.

Judge Advocate.—It will not be necessary to deliver in the last order, as it is a copy of that before the Court; but I should conceive the first order should be delivered in, being officially delivered to Brigade General Craufurd, and being in the hand

writing of Lieutenant Colonel Torrens, the Military Secretary, which must be supposed to be by authority of Lieutenant Colonel Whitelocke. If there is any doubt that it was by authority of Lieutenant General Whitelocke, Lieutenant Colonel Torrens might be called in, to state that; but it will be unnecessary to trouble General Craufurd to read it, as the other being in evidence, the Court have it in their power to compare the two.

General Craufurd.—I had an official letter, signed by the Commander of the Forces, inclosing the first order, which I suppose Lieutenant General Whitelocke will think it proper to produce, inasmuch as it states reasons for adopting the conduct which he did in attacking the town, which I suppose he will explain.

Judge Advocate.—You will have the goodness to leave the last orders you received.

A. I will leave it with the letter in which it was contained. It is perhaps material to mention that my happening to have that letter in my possession when I was taken prisoner, was of considerable use, for the enemy had heard reports that instructions had been given by General Whitelocke to give no quarter. I shewed this letter to the Spanish officer, in which very particular directions were given by the Commander in Chief, to prevent the effusion of blood as much as possible, and particularly with respect to persons not in arms; and the possession of that letter, while I was a prisoner, seemed to have a considerable effect in satisfying the minds of the Spanish officers, who before that time had some doubts.

Judge Advocate.—I have no objection whatever to that being taken down.

A. My having this letter in my pocket when I was

taken prisoner, was, I believe of some use, as the superior Spanish officers had heard that orders had been given by General Whitelocke to give no quarter, and my shewing this letter to Generals Liniers and Dalbiani, appeared to convince them that General Whitelocke had been anxious to prevent any unnecessary effusion of blood; and particularly any acts of violence being committed on persons not carrying arms.

General Norton.—Did you, when you reached the beach, and would have assailed the fort and citadel, had your means been equal to the task, entertain a doubt of such attainment being the main and ultimate object of the attack?

A. Having no ladders, I certainly did not think that it was expected of me to get into the fort; but if I had seen any possibility of taking it, of course I should have judged it my duty to do so.

General Norton.—That is not exactly the question; but whether you considered the taking of the citadel and fort the main and ultimate object in view?

A. I conceived that the taking of the whole town was the object of the attack. The question is put as if I had stated to the Court that I never, at any moment, had entertained a hope of getting into the citadel myself. If it is of any consequence to the Court to know what construction I put on the disposition, I will state it.

Q. Are you of opinion, that in the better order, and with the least impaired numbers, troops could be brought to the point of attack, the greater will be the prospect and probability of success? You will not consider this question as confined to your brigade, but applied, yet more forcibly, to those parts of the army which suffered most severely in penetrating through the streets to the river?

A. I am of opinion that it is at all times highly important to bring troops up to the enemy in as good order as possible; and that the smaller the loss in preliminary measures, the greater probability there will be of success.

Q. Do you believe that the surrender of the town would have been the natural consequence, if the fort and citadel had been carried?

A. That must depend upon circumstances; which I will explain. The fort is small, and completely commanded, if any small column, taking advantage of a partial confusion of the enemy, had penetrated into the fort through the gate (for that was the only way of getting in). I think it is very probable they might have had the same fate which I had in the Convent of St. Domingo. What I mean by that is, that such a circumstance might have arisen, if other attacks had failed, and other corps had not come near them, and supported them. The fort and citadel are the same. It is a very small one, without a parapet. With deference to the Court, I do not think that my opinion upon this subject can be of any importance.

General Fox.—Do you conceive that any advantage would have accrued from the troops having been ordered to load upon the commencement of the attack?

A. My opinion is, that it would have been better if they had been loaded.

Lord Cathcart.—Are you sufficiently acquainted with the environs of Buenos Ayres, to state whether the force under Lieutenant General Whitelocke, when entire, could have been so disposed as to cut off all supplies by land from the town?

A. I am not sufficiently acquainted with the envi-

rons of the town, from any actual reconnoitring, to enable me to speak positively to that point. I am rather inclined to think, that, considering the inability of the enemy, from the nature of his troops, to contend with us in the field, we might, with safety, have taken such a position as would have rendered it difficult for the town to obtain considerable supplies of provisions from the country. I do not know whether it is necessary for me to add, that if the enemy's troops had been of a different description, that evidently would have been out of the question; I do not think we could then, with safety, have taken such a position.

Q. From your observation of the place, could a communication have been established with the fleet before Buenos Ayres; and a situation chosen, from whence the effect of batteries might have been tried?

A. If the army had taken a position on the north side of the town, embracing the heights of the Tauros, we might have communicated with the fleet, and have tried, with advantage, the effect of cannonading and bombarding the town.

Q. Was the situation of the Spanish troops in the houses, on the 5th, such as to have afforded them protection against shot and shells, or grape and car-nades of a heavy nature.

A. I must consider that as proceeding from the ships.

General Harris.—From the Plaza del Tauros, or Corall, or any where, taking it generally.

A. I certainly think that a cannonade from heavy batteries on the heights of the Tauros, and from the shipping, would have had considerable effect in pre-

paring the way for an assault. The houses are none of them such as to resist either shot or shells, the only shots I saw come into the town went through; but, from there being very little wood in the construction, they certainly are not easily set fire to.

General Dundas.—You do not expect houses to be set fire to by shells, they may occasionally be so, but that is not the intention of them.

A. I do not know whether it may be material to add to that answer, that the fort itself, having no parapet, and several of the principal houses, from the tops of which the enemy did fire with effect on the troops advancing towards the fort, were entirely open to the fire of gun boats, and such other vessels as from the depth of water could approach near enough to the town.

Lord Cathcart.—Are you, or are you not, aware of any pressure of circumstances on the morning of the 5th, which rendered it indispensably necessary to proceed to action on that morning?

A. I beg to ask, am I to understand to the attack of the town? I am of opinion that it was adviseable to change our position; but certainly there were no circumstances within my knowledge which rendered it necessary to assault the town on that day. By changing our position, I mean that we were losing men in the situation in which we were without any object; what I mean is, that we should have changed our position in the way which I have described, and attacked the heights of the Tauros, which the Court will be aware are not in the town, but are separated from the town.

Q. Had you, or had you not, any sort of intimation or knowledge whatever, of the plan or disposition which the Commander of the forces had it in his contemplation to make, when the several corps

should have arrived at their respective destinations, on the 5th of July?

A. I had not. It is unnecessary to add that I expected that some superior officer would have arrived, to make a further disposition. With the permission of the Court, I should wish to correct one or two trifling errors in my evidence. In the first place, the Court, in examining me on the former part of the charge, asked me whether I could judge what portion of the enemy's army we were engaged with on the afternoon of the 2d. I have, what I believe the Court will consider, or which people in general will consider, the best information on that subject, (whether it can be admitted here, I do not know,) which states that General Liniers marched to meet us with four thousand men. I stated that, from my own observation, I could not undertake to answer the question; but I believe they were the most regular troops, because all the men who were killed were drest in uniform. The second in command of the Spanish army told me that there were four thousand men.

Judge Advocate.—I am not aware precisely with what view that question was asked; but, if it was asked with a view to impeach Lieutenant General Whitelocke's conduct, in consequence of any answer which might have been given, as to the number of troops who were defeated at that time, as at all deciding subsequent operations. I think this information General Craufurd acquired subsequent, and which could not be known to General Whitelocke at the time, and by which it was impossible for him therefore to regulate his conduct, cannot be received against Lieutenant General Whitelocke. I conclude this information was received by Brigadier General Craufurd, after he surrendered?

General Craufurd.---Certainly.

Judge Advocate.---I think the original answer ought to stand; the conclusion which he drew at the time from his view of the army, and not in his subsequent information he obtained.

The Judge Advocate read the Evidence given by General Craufurd yesterday, beginning, "Major M'Cleod appeared to hesitate," ending "with the other three officers."

General Craufurd.---Major M'Cleod did not accept this proposal which was repeatedly made to him, nor did he give the slightest hint that he thought the attempt ought to be made; he appeared to me, rather unwilling to take upon himself the responsibility of giving an opinion, which I informed him I should afterwards call upon him officially to repeat. But from all that passed between him and me, in the presence of Lieutenant Colonels Pack, Guard, and Holland, I and they felt convinced that he concurred in our opinion. I do not know whether it is proper to add, "and without thinking ill of Major M'Cleod, I cannot draw any other conclusion." There is another thing I have omitting to state; that after the attempt to leave the convent, I ordered the riflemen to resume their posts. I know that in an infamous publication, the author of which I do not know, it has been stated, that I did not allow them to resume their posts.

After the words, "I ordered the remainder to return into the Convent," the following words were inserted, "I ordered the riflemen to resume their former posts, which they accordingly did."

General Craufurd.---I hope the Court will indulge me by inserting a few words; I have said that

the guns with us were of no use. I hope the Court will allow me, in justice to those who served the guns to say, that the detachment with my guns, behaved on that day, as they did on every other---with distinguished bravery. Captain Nicholls, who attended the gun with me, acted with great bravery; the people with the others were all killed.

After the words, "those which we had were of no use," the following words were inserted, "Although the officers and men attached to them behaved with distinguished gallantry."

Judge Advocate.---There was a question put to General Craufurd, by an Honorable Member of this Court, to which an answer has been received, which leads the Honourable Member who put it to think that it would be better to erase it from the minutes; that cannot properly be done without stating it.

The Judge Advocate read the question beginning "Are you of opinion that in the better order and with the least impaired numbers."

I think it is perfectly immaterial: the Honourable Member who put it, rather thinks that the question and answer should be erased.

They were erased accordingly.

The witness withdrew.

Lieutenant Colonel DENNIS PACK sworn.

The third charge was read.

Examined by the Judge Advocate.

Q. Did you command the left wing of the light brigade in the attack on Buenos Ayres on the morning of the 5th?

A. I did.

Q. State the operations of that wing, from the period of your separating from the right wing, under Brigadier General Craufurd, till the period of your junction with him?

A. I proceeded into the town of Buenos Ayres by the road pointed out in orders. The first remarkable thing that attracted my notice was the extraordinary stillness of the town, interrupted only by a few random shots, fired at the column from a distance, as it passed. Some intelligent men of the advance had observed the sound of voices in some of the houses as we passed, and prudence would here have dictated to me to have examined them separately as I went along; but thinking such an operation would have militated against the orders I had received, I thought it right to press forward. I did so without further opposition, except from some shots fired from avenues leading to the great square, the bottom of which I passed, till I came within view of the river Plate. I here halted the head of the column to allow it to close up; and hearing a firing to my left, and seeing nothing in my front of the enemy, or any post to occupy there, or to my right, I conferred with Lieutenant Colonel Cadogan, who agreed with me in the propriety of taking ground to the left, and commencing the attack, supposing the enemy to be there. The

lamps were just expiring, and some of them seemed disposed as if to assist the besieged, in case of a night attack, and circumstances generally denoted a certain state of preparation and intended resistance.

Judge Advocate.—If it will not interrupt your narrative, will you state the strength of your column?

A. As nearly as possible, 600 rank and file. I directed Lieutenant Colonel Cadogan to lead the rear half, and advance in a parallel street with me. I was always under apprehensions that we were unprovided with means equal to overcome the defences of the place; and I was soon convinced that I had entered on a contest the most unequal, perhaps, that was ever fought; for I had scarcely approached under the Franciscan church, when I lost by a fire of an enemy, almost invisible, and certainly by us unassailable, the officer, and almost the whole of the men composing my first division, who were volunteers from the different companies; the officer, and nearly half the next company, and so in proportion of the others which composed my division. Finding it impossible to penetrate to the object of attack, which I conceived to be the square and fort, or gain any advantageous position in the neighbourhood, I thought it right to desist, and enquire the success of the division, which had gone by the approach on my left. With this intent, I withdrew the remains of mine to the cross street, by which we had advanced, and which in a great degree protected them from the fire we had been under. I had scarcely done so, when I learned the failure of the other column also; and going up the street—

Lord Cathcart—Will you state what you mean by the other column?

A. The other column of my brigade. On going into the street, I found the men retiring,

and met Colonel Cadogan in a little time; he was excessively distressed, and emphatically assured me, that he and all his men had done their duty, but that really they had not the means of succeeding. I should perhaps mention, that the gun, which was attached to our column, from the position in which it was, accompanied him: it was a three pounder; every man and horse attached to it had been killed or wounded, and the gun was lost. I could readily believe Colonel Cadogan's statement, and directed his men to form on the line with mine; and I went myself to reconnoitre the buildings forming the bottom of the square in which the Jesuit's College is situated, but though well acquainted with them, I found it impossible to find an entrance there. On returning to Colonel Cadogan, I intimated my intention of proceeding to the Residencia. Some of his men had forced open two houses, but I conceived them of no consequence, except that they afforded shelter to the wounded men. Colonel Cadogan, however, deprecated the idea of giving up the ground we had gained with so much loss; and, as General Craufurd was momentarily expected up, I allowed him to remain in the position the troops were then in. On crossing to fall in with General Craufurd, I met Colonel Gard with a division of the 45th, and learned from him that the Residencia was in our position. Almost immediately after, General Craufurd's column appeared at the head of a narrow street, leading to the back of the St. Domingo church. I had often mentioned to General Craufurd the advantages of a position about the Residencia, and, after relating to him the misfortunes of the morning, and stating to him the impracticability, in my opinion, of overcoming the defences of the enemy, provided as we then were, and how badly situated Colonel Cadogan was, I strongly pressed upon him the propriety of then taking post at the

Residentia. General Craufurd hesitated, and I saw an apparent reluctance on his part, and that of Major Trotter to retiring. He asked me, if the building at the back of which we stood was not the St. Domingo church. I answered Yes; but that I did not think it was an advantageous position to take; he remarked, that it was in strict conformity to his orders to do so, and I reluctantly assented to it. I think I should also add, that General Craufurd asked me, whether the position Colonel Cadogan held would not in some degree support us. I answered that it certainly would, if Colonel Cadogan could have kept that post; it would have prevented the enemy coming round our quarters. On entering the church, which we were enabled to do by the three-pounder which General Craufurd had, some parts of it were found to overlook the houses more than I confess I thought they would. The colours of the 71st regiment were found there; and I was overjoyed that we had entered, satisfying myself, that though I might have acted contrary, General Craufurd, as an officer, had acted right. Under those circumstances, Colonel Cadogan was allowed to hold the position he had, and the remainder of mine near the convent were brought in. It was my intention to have gone to Colonel Cadogan, but General Craufurd insisted on my going in where the surgeon was, in consequence of my being wounded. Things were at this time pretty quiet, and we rested in confident hopes, that a favorable opportunity would soon occur of again renewing the action, or of advancing to the Saint Franciscan church, which was a little in our front, and a very desirable object to gain. Between eleven and twelve, as nearly as I can recollect, it was reported, with other favorable circumstances, that the colours at the fort had been hauled down, and I believe no one doubted it; but the flag of truce, which soon after appeared, was to surrender, instead of

summoning us to do so. Availing themselves of the flag of truce, the enemy had advanced their approaches; and after General Craufurd had dismissed the flag of truce, they attempted to press forward upon our gun, but this I was not aware of till the bustle of Colonel Sand going out with the division he commanded, and returning, attracted my attention, when I heard it, and the severe loss he had sustained. General Craufurd came in shortly after; his eyes seemed now to be opened to the situation we were in, and to doubt whether things were so favourable as we had hoped; and so satisfied was I that he would then have thought of retiring, that I directed an officer, I believe Major M'Cleod, to take care that our colours were confided to some trusty men; one of them had been placed on the top of the convent, and the direction I had mentioned must account for its then being taken down, though not intended to be acted upon at the moment. General Craufurd seemed now to think more decidedly of the propriety of retiring; he asked me if I should be able to accompany him, and still entertained doubts of his being warranted in evacuating his post. I answered yes; but it really appeared to me a point of such delicacy, that it was impossible to press it, and thus, a hope of receiving orders, and his sense of duty, as it appeared to me, induced Brigadier General Craufurd to postpone carrying into effect a retreat until that moment, when it became a matter of consideration to communicate with the enemy. This, I should suppose, was between two three; he seemed to think then that it would be impracticable to retreat, and certainly I thought myself it must be attended with a very severe loss. In a very little time afterwards General Craufurd assembled the field officers, when he gave his opinion decidedly to the effect I have mentioned; and, on his doing so, directly to myself, I said, that in that case I thought a question arose, as to what

effect our conduct would have on the general operations of the army, and whether we were not placed in that critical situation as to make it absolutely necessary to sacrifice ourselves. Neither General Craufurd, nor those present, seemed to think there could be any such necessity. I assented to the judgment of General Craufurd, an officer, whom, though unfortunate, I must ever respect and admire; and I think it a duty I owe him and myself, to state distinctly, that in giving that assent I must be considered to have sanctioned that which afterwards took place. I do not think, however convinced he might be of the propriety of what he was about to do, he would have acted so without conceiving he had the sanction of those he consulted. General Craufurd seemed perfectly ready to sacrifice his own life, but thought he was called upon to interpose his authority to save those who were placed under him. When this discussion took place, I certainly thought if we were obliged to surrender that we would have had better terms; and when eventually General Craufurd went out to the Spanish officer, I was not present, nor aware of the circumstances of the moment that led him to make the capitulation he did; at the same time, by mentioning this I do not mean to insinuate that I either would or could then, with propriety, have withdrawn the sanction I had given to General Craufurd. I do not know whether it is necessary to state any thing further that passed after the surrender of the troops.

Judge Advocate—We have already had that stated by Brigadier General Craufurd, therefore it does not appear necessary.—You belonged to the former expedition under General Beresford?

A. I did.

Q. Whilst you were at Buenos Ayres with General Beresford, had you the means of obtaining a

local knowledge of the town of Buenos Ayres and its environs?

A. I had accurately of the town, and a general idea of its environs?

Q. Were you the senior officer attached to the expedition under Lieutenant General Whitelocke, who had belonged to the former expedition under Brigadier General Beresford?

A. I was.

Q. Being the senior officer, who had belonged to the former expedition against Buenos Ayres, were you at any time, and when, consulted by Lieutenant General Whitelocke upon the plan of operations against the town?

A. General Whitelocke spoke to me twice upon the subject, once when I happened to be at head-quarters, on the evening of the 3d of July, the orders and arrangement for the attack the next morning, were then out. General Whitelocke seeing me at head-quarters, beckoned me over, he said, what do you think of this, or something to that effect, to which I replied, that every confidence was to be placed in the troops, but I was anxious to see the means of carrying the attack that was decided on, into effect. Something attracted the General's attention at this time, and rather abruptly broke off the conversation. General Whitelocke appeared to me then as a man intending to act contrary to what was his own judgment; and I was inclined the more to that opinion, having seen a paper that the intended mode of attack would not be resorted to under other circumstances. Very shortly after I retired to my quarters to the brigade, but with directions to attend the next morning at head-quarters, I think at nine or ten, with the other commanding officers, to receive orders. General Craufurd had resigned the care of his brigade a good deal to me; and in preparing the disposition of it, and not having a watch, the

hour inadvertently passed over, and I was not present when the commanding officers assembled. The general officers, however, were there, and the moment General Whitelocke saw me, he called me over. Nothing to that time had been furnished to the brigade that in my mind would have forwarded the attack intended; and I then, more decidedly than the evening before, mentioned my apprehension that we really had not the means of succeeding. I remarked to him, that from the turrets of Buenos Ayres, the enemy could distinctly perceive every movement that was made, and suggested, whether, if such an attack was to be made, it would not be better to attempt it before day light, and when, perhaps, we might have better means furnished. To this General Whitelocke seemed immediately to assent, and he took me into the room where the other general officers were, and mentioned to them the purport of what I had stated. It seemed to be approved of by the general officers, but, as I thought, so coldly received by the second in command, as to prevent much discussion on the merits of the business, and the conference broke up, with the orders for it to take place, as it did on the following morning.

Q. Is the Court to understand that you were not consulted at all by Lieutenant General Whitelocke, as to the plan of operations against the town, till after the plan was formed, and the orders issued for its execution?

A. I leave to the Court to form its own judgment; having stated facts.

Q. Having stated, in the first conversation which you had with Lieutenant General Whitelocke, that you were anxious to see the means of carrying the attack that was decided upon, into effect; and having suggested, in the subsequent conversation, the propriety, if such an attack was to be made, of attempting it before day light—Did

you, or did you not, communicate a distinct disapprobation of the plan of attack decided upon?

A. I do not recollect that any thing further passed than what I have stated. I do not recollect to have said any thing further.

Q. Having stated that you recommended, if such an attack was to be made, the propriety of attempting it before day light—Did you convey your opinion, that if the attack was made before day light, it would, in your opinion, succeed?

A. Most certainly: I never intended to convey the slightest approbation of the attack intended; and to General Craufurd I opened my mind upon the subject, deprecating such an attack, as I certainly would have done had I been sure of its succeeding, from the loss of lives which I was sure must occur.

Judge Advocate.—I own I am doubtful how far that latter part ought to be taken down; I am at present enquiring what passed between Lieutenant General Whitelocke and Lieutenant Colonel Pack. Whatever passed between them is clearly evidence against Lieutenant General Whitelocke; but any conversation between Lieutenant Colonel Pack and another General, I conceive cannot well be received against Lieutenant General Whitelocke.

A. I should have thought my first answer would have conveyed every thing which passed between Lieutenant General Whitelocke and myself.

Judge Advocate.—I shall, in following my examination, enquire what your opinion was, but not what you stated to any other officer. In your narrative you have stated—I was always under apprehension that we were unprovided with means equal to overcome the defences of the place. I would wish to ask in what particulars the troops under your command were unprovided with the means necessary to secure their success?

A. I conceive in many—in artillery, scaling lad-

ders, petards, and better implements for forcing open houses, and which I understood had been provided before.

Q. Having stated in the course of your narrative, that the door of the Convent of St. Domingo was broken open by the three-pounder you had with you—Are you of opinion, that if more artillery had been ordered to accompany the columns, they would have had a better chance of success?

A. Certainly, and scaling ladders, especially in an attack of that kind, I should have thought particularly desirable.

Q. From what you saw of the strength and means of the enemy upon the 5th, are you of opinion that the necessity of your surrender would have been prevented, had you received that support from the reserve under the immediate command of Lieutenant General Whitelocke, or from the force under Colonel Mahon, which, from your knowledge of the strength of those corps, either of them might have been able to afford you, if so directed?

A. Certainly; for a simple communication of orders would have prevented it; or had the 45th even acted as a supporting corps, and kept up a communication to convey them. With respect to the strength of Colonel Mahon's corps, or of the reserve with Lieutenant General Whitelocke, I had no information what they were. I knew from mere report what Colonel Mahon's were.

Q. Can you state, from your local knowledge of the environs of Buenos Ayres, whether the army, under Lieutenant General Whitelocke, when entire, could have been so disposed as to cut off all supplies by land from the town?

A. Yes, I think it could.

Q. From your local knowledge of the town, could a communication have been established with

the fleet, and a situation chosen, from which the effect of batteries might have been tried?

A. Yes.

Q. State what, in your opinion, that situation ought to have been?

A. The Plaza del Tauros I conceive to be the most commanding situation, and any attacks which I should have been induced to have made upon the town would only have been as feints, with a view of carrying that one place.

Q. From your local knowledge of the town, was the situation of the Spanish troops such, upon the 5th, as to have afforded them protection against grape or carronades of a heavy nature directed against the town by sea or land?

A. I do not exactly understand the question. No attack could be made from the water, while the troops were in the town.

Judge Advocate—I will explain my object in the question. I shall follow it up by asking, whether a combined attack from the Plaza del Tauros by land, and the shipping by sea, would not have been the most likely means of securing the success of the operations. In the answer to that question, probably you will be able to give the information I wish.

A. I do not conceive the shipping could have been well brought into action, until the Plaza del Tauros was carried: that place certainly would have prevented, in a great degree, the effect of their fire on the Spanish troops, as they were posted. Upon the land side, batteries of heavy ordnance certainly might have been erected with effect, though the ground generally was not favorable to it, except at the Plaza del Tauros.

Q. Supposing the Plaza del Tauros to have been in our possession, from your knowledge of the town, would it have been practicable to have had

an effectual co-operation from the navy in the attack?

A. Most certainly; I cannot conceive of the town of Buenos Ayres holding out an hour, with batteries erected on the Plaza del Tauros, and a well-combined attack from the navy.

Cross-examined by General Whitelocke.

Q. Had I not, before the 3d of July, availed myself, in various conversations, of the information afforded by your local knowledge of the country and inhabitants?

A. Only the march from Ensanada, Lieutenant General Whitelocke did once or twice, or perhaps oftener, question me as to the route, and respecting the Rio Chieulo, and perhaps the direction of other points connected with the march, and which generally I was not able to give him information on, never having been in that part of the country before. With respect to the inhabitants of Buenos Ayres, I do not recollect that he asked me any questions, though I believe he might have sought information with respect to those on the Colonia side of the river.

Q. I forget whether you were at Monte Video before we sailed?

A. No; I was not.

Q. Did I ever see you before you joined the expedition from Colonia, after we had sailed from Monte Video?

A. Never.

Q. Had you heard of the plan of attack before I joined with the main body on the 3d of July?

A. No.

Q. Did you, at the time, state any other deficiency than that of implements for forcing doors, &c. and did I not immediately order search to be made for more of such implements?

A. I do not recollect that I did: the implements I mentioned, I always understood were on board ship; and I also had reason to know that Lieutenant General Whitelocke did order such a search to be made.

Q. Was any disapprobation of the plan, or any opinion unfavorable to its ultimate success, though with loss, either given or stated at the meeting on the 4th of July?

A. I do not recollect that there was; though some remarks were made, and I believe by myself, which were stopped in the way I have mentioned. If I did not open my mind, and express disapprobation of the attack intended, it was because I conceived that the commander-in-chief had the best possible information from Sir Samuel Achmuty, who had lived for three weeks in close intimacy with General Beresford, previously to the arrival of Lieutenant General Whitelocke; and I was impressed with the conviction, that Lieutenant General Whitelocke had originally intended to act upon a very different plan, and was led to adopt the one I have mentioned from some imperious necessity, which I never learned, and was perfectly aware of the difficulties he must encounter.

Adjourned to Monday morning ten o'clock.

TWENTY-FOURTH DAY.

MONDAY, FEBRUARY 29, 1808.

Judge Advocate—Before General Whitelocke proceeds in his examination of Lieutenant-Colonel Pack, I wish to state, that I have been applied to by Brigadier General Craufurd, to amend an answer he made to one of the questions I put to him. He would have attended here to-day; but it appeared to me, that the amendment he wished to make was so immaterial, that it was not necessary for him to attend. I communicated to General Whitelocke the amendment he wished to make, and General Whitelocke was of opinion there was no reason why it should not be made, and that in consequence of its being made, he should not have any additional question to ask him. The question is this—Would not the operation of the troops under your command have been materially aided by artillery. The answer he made was—I do not think that field-pieces taken into the middle of the town, in the manner that we advanced into it, would have occasioned any great difference in the result of our attack: those which we had were of no use, though the men attached to them behaved with distinguished gallantry. The alteration which Brigadier General Craufurd wishes to make, and which I have communicated to General Whitelocke, is this—I do not think that field-pieces taken into the middle of the town, in the manner that we advanced into it, would have occasioned any great difference,

except as they might have been of use in forcing open doors.

Lieutenant Colonel PACK called in again.

Colonel Pack—I beg leave, before any further question is put to me, to state, that I do not consider my last answer as quite concluded. That question, and the one before, certainly, I think, conveyed an idea that Lieutenant General Whitelocke had an impression upon his mind that I was further consulted; there, it appears by the evidence I have given, that I was; and I do think it is but justice to him and to myself to request, that I may trespass on the Court, to shew, that if he had such an impression, he must have been deceived. I should be extremely sorry Lieutenant General Whitelocke should conceive I have answered any question in a different manner from what he expected; and therefore I would go on, and state, from my first interview with Lieutenant General Whitelocke, what passed; and then the Court and the world will judge how far I was called upon to give more information as to the situation of the country than I did, and I shall most readily share any blame which will attach upon me, and take from his shoulders, if I ought to have done so. I will only state the fact, and leave to the Court to decide how far I was so called upon. I will proceed, but first I would throw myself upon the judgment of the Court; for, in giving my evidence, I should be extremely sorry to say one word too much, as, at the same time, that I should also feel the same regret in saying one too little. If the feeling of the Court is not, as I take it, from the question, I trust it will be unnecessary for me to say more.

Judge Advocate—I cannot tell what the feeling of the Court may be, but from the line of conduct they have pursued, I am certain I may state

that, if Colonel Pack conceives that, in the answer taken down, his sentiments upon the subject are not distinctly stated, and the opinion he has given is liable to misrepresentation, the Court undoubtedly would be anxious that answer should be explained, that what appears upon the minutes should be precisely what Colonel Pack means.

General Whitelocke.—The last question has no reference whatever to Colonel Pack. I only asked Colonel Pack whether he heard any of the officers say any thing in disapprobation of the plan: the sole point is, whether he heard any disapprobation expressed.

Judge Advocate.—The last question was,—Was any disapprobation of the plan, or any opinion unfavourable to its ultimate success, though with loss, either given or stated at the meeting on the 4th of July? To that Colonel Pack has made an answer, in which he states that there were expressions of disapprobation fell from him, and that part of the answer Colonel Pack is desirous of explaining.

Sir John Moore.—Does General Whitelocke mean only whether any opinion was given by the other officers present, adverse to the plan?

Judge Advocate.—Then the question does not imply what General Whitelocke intends, because the question is a general one; and supposing Colonel Pack had heard no opinion expressed, except that which he himself gave: of course, he did hear what he himself said, and therefore is bound to state that in answer to the question: therefore, I do not conceive the question in that case implies what General Whitelocke supposes.

General Whitelocke.—I surely want to know what was said upon that occasion.

Judge Advocate.—That must be what the witness said himself, or the others.

General Whitelocke.—I wish to have the question put in my own language, and not to have it explained away by the prosecutor or any other person.

Judge Advocate.—The question is before the Court: so far from intending or wishing to explain away the question, I have read it in the very precise words in which General Whitelocke has put it; but when an objection is made to allowing Lieutenant Colonel Pack to give an explanation to his answer, on the ground that the question means something different from what the words import, I am bound to interpose on the part of the witness, and to submit that he has a right to give that explanation. The question put by General Whitelocke was,—Was any disapprobation of the plan, or any opinion unfavorable to its ultimate success, though with loss, either given or stated at the meeting on the 4th of July? In answer to that question, what does Colonel Pack state? What is the substance of his answer?—That he did not hear any other expressions unfavorable to the plan of attack, but what dropped from him. But being asked whether he heard any opinion unfavorable to the plan; undoubtedly he heard his own, and that is a part of the question asked; and he would not have given a proper answer to that question, if he had not stated what that opinion was which was given by himself. He now wishes to explain what he has said respecting that opinion. I am not proposing a different question from that which General Whitelocke put.

Colonel Pack.—I wish the mind of General Whitelocke particularly to be impressed, that I had many opinions to give, and that if I did not give them, it was not from any unkind feeling

towards him, but because I thought I had no proper opportunity to do so, and that it would have been presumption in me to have obtruded myself upon his attention; indeed that I could not obtrude myself upon his attention.

Lord Cathcart.—I conceive either the question may be amended, or the answer.

General Whitelocke.—Is that the whole of what you have to observe?

A. Yes, it is.

General Whitelocke.—I have no objection to that.

A. It is not the whole I have to state upon the subject, certainly; I should wish to go back to my first meeting with General Whitelocke. I stood in a very delicate situation; having stood as third in command under General Beresford for twelve months, and having my own thoughts and General Beresford's very much impressed upon my mind.

Sir John Moore.—I take it that Colonel Pack understands the question to be, whether General Whitelocke had consulted Colonel Pack.

Judge Advocate.—The last question put on Saturday, is not whether he was consulted, but whether any disapprobation was expressed to the plan of attack upon the town?

Sir John Moore.—I understand Colonel Pack to have stated all that he did say. I take for granted the Court would wish to understand only what reasons he did give, and not what reasons he did not give. Colonel Pack, I suppose, from his situation in that country, had a great many opinions, but I suppose the Court have to do only with those he actually gave. Now if Lieutenant Colonel Pack had opinions which he would have given to Lieutenant General Whitelocke if he had had other opportunities, or had been asked; as he

did not actually give them, I apprehend the Court have nothing to do with them.

Judge Advocate.—Not in answer to this question I conceive, certainly.

Sir John Moore.—Lieutenant Colonel Pack has stated that he had a short conversation with Lieutenant General Whitelocke, and that it was interrupted, and therefore, whatever he would have said, he did not say; that the next day he had another short conversation; and I conceive from the spirit of Colonel Pack's evidence, that he has told all that he ever said to Lieutenant General Whitelocke in that statement.

General Norton.—Perhaps the shortest way would be for Colonel Pack to add to his narrative.

Colonel Pack.—The object of what I first stated, was to remove any feeling in the mind of General Whitelocke, of the Court, or of the world, to state why I did not come forward in the first instance and state, as some persons might have thought I was bound to do, what was my opinion.

Judge Advocate.—I have just received a paper from General Whitelocke, which he wishes should be read. "The Prosecutor is mistaken in supposing that any objection of any sort is taken to what Colonel Pack has said, or wishes to say. General Whitelocke only wishes to know what passed at that meeting, and that his question might be so understood. It is for the Court to say whether they wish to hear Colonel Pack; General Whitelocke only wishes to do away the impression which seemed to be on Colonel Pack's mind, that General Whitelocke was dissatisfied, or could be so, with his answer."—I have no observations to make upon that, except that if Colonel Pack has not given that answer to the question which is satisfactory to his own mind, the Court certainly would wish him to amend that answer.

Colonel Pack.—I only wish it, if General Whitelocke has the impression upon his mind that I had an opportunity, or could give him my opinion from the time of the first interview I had with him.

Judge Advocate.—Then I am to understand Colonel Pack does not wish to amend that answer?

Colonel Pack.—If General Whitelocke is satisfied with it, I must be. I would wish to state, that having been so particular in my statement with respect to General Craufurd, and having given advice to him which, if it had been followed, as circumstances turned out, would certainly have been a favorable thing, might look as if I indirectly wished to take credit for doing so. It is quite the contrary; I merely state the facts as they then occurred. It will shew that I have had no wish to avoid giving my opinion when asked, or that responsibility which I believe would most heavily have attached to me, had Brigadier General Craufurd fallen back and not sustained his post: but I found my conviction so strong in the doing so, that, though in the most delicate situation in which a soldier could be placed, I gave it to him when asked, and I could not condemn him, because if he did not feel the same conviction I did myself, he could not have followed my advice.

General Whitelocke.—What would have been the consequence to the prisoners of a renewal of the attack upon the town, either by the same means, or by bombardment, or otherwise?

A. I think a bombardment of the town of Buenos Ayres must certainly have endangered, and very strongly, the lives of the prisoners; but I do not think, as I stated almost immediately, when Lieutenant General Whitelocke asked me a similar question, that the lives of the prisoners could have been in danger from the inhabitants. I do

not think that the inhabitants would have put them to death ; at the same time, there are others whose judgment, perhaps, is better, that were of a different opinion.

Q. Will you look at that letter, and state whether it is or not a copy of the letter you wrote to General Whitelocke on the subject of the danger to the lives of the prisoners?

A. It is a letter I wrote for Lieutenant General Whitelocke, not to him. It is in my recollection that I wrote that letter, and that more meaning might not be attached to it than I intended, I went to General Whitelocke to explain to him that I never conceived the lives of the prisoners were in danger from the exasperation of the inhabitants.

Q. Did you see me?

A. I did, personally.

The Letter was read.

“ SIR, July 8th, 1807.

“ It is my decided opinion that the bombardment of Buenos Ayres would have been attended with fatal consequences, as to the British prisoners.

“ I have the honor to be, Sir,

“ Your most obedient humble servant,

“ D. PACK,

“ Lieut. Col. of the 71st regiment.

“ To Lieutenant General Whitelocke,
Commander-in-chief of the Forces in
South America.”

Colonel Pack—General Whitelocke, the morning after I came to the Plaza del Tauros, asked my opinion on the subject of the preceding question, and whether I had any objection to give that opinion in writing. I said, No, certainly not ; but

at the time of writing it (seeing other opinions stating that the lives of the prisoners would have been much endangered from the exasperated state of mind of the inhabitants, if any renewal of the attack took place), I thought, in candour, I owed it to myself, personally to apprise General Whitelocke that my opinion solely alluded to the bombardment.

Re-examined by the Judge Advocate.

Q. Was that letter written by the desire of Lieutenant General Whitelocke?

A. At his request.

Q. The date of it is the 8th?

A. Yes; the morning after I came to the Plaza del Tauros.

Q. The morning after the signature of the treaty?

A. I do not know whether the treaty had been signed or not.

Q. Was it after the exchange of prisoners?

A. Yes; it was after I had been exchanged by a release. I beg to state that I had in perfect recollection, when the question was asked me, the opinion I had given, and I do not altogether say that my opinion was contrary to that in my better judgment, for while I entertained that opinion, perhaps others who were well acquainted with the disposition of the inhabitants, were of a contrary opinion.

Examined by the Court.

Sir John Moore.—Is there any thing so peculiarly bad in the climate of Buenos Ayres at that season of the year when you were before it, as to render it very inconvenient for troops to keep the field?

A. There is nothing in the climate so bad at any time, as to prevent troops keeping the field; but there are particular periods when there falls a deluge of rain, and which was just then approaching. I entertained and expressed the greatest apprehensions on account of the weather, and certainly had I given an opinion previous to the army disembarking, it would have been to have waited till a more favorable opportunity.

General Loftus.—Is the climate the same in the Rio Plata as it is in the same latitude on the coast of Africa?

A. It is exactly the same.

General Norton.—How soon did the rain set in at Buenos Ayres last July?

A. There was very heavy rain, I think, the night of the 2d and morning of the 3d, but it did not continue so long as it usually does at that period of the year; it generally sets in at the new moon, about the 20th of June, and lasts through July.

Q. Had the post of Colonia been retained, might not a sufficient number of cattle been collected to supply the army before Buenos Ayres for a certain time?

A. Yes.

The Witness withdrew.

Judge Advocate.—This may be as good an opportunity as any other to put in two pieces of the evidence which must appear on the minutes; the one, the 2d letter written on the 6th of July by Lieutenant General Whitelocke to General Liniers; the second, the treaty that appeared in the Gazette, and being in the knowledge of Members of the Court, I conceive it is not necessary to read it. I produce certified copies from the Secretary of State's office, of the papers received from Lieutenant General Whitelocke.

The following letter was read:

“ SIR, “ Plaza de Toros, July 6, 1807.

“ I have the honour to state to you, that when I received your letter I was just setting out for this place, and presume, by the recommencement of your fire of artillery, that you are not disposed to agree to the cessation of arms, which I have proposed. Feeling so sensibly as I do, for the sufferings of the unfortunate men who, having been wounded, may want relief, I propose to you, that all firing should cease, while I send an officer to you of rank, Major General Leveson Gower, who will explain the terms on which I propose to meet the views expressed in your letter.

“ JOHN WHITELOCKE.”

The treaty, dated the 7th of July, was given in, and ordered to be entered on the Minutes.

The Hon. Lieut.-Colonel HENRY CADOGAN
sworn.

The Third Charge was read.

Examined by the Judge Advocate.

Q. I believe you commanded the division of the left wing of the light brigade, on the day of the attack on Buenos Ayres?

A. I did.

Q. Describe the operations of the division under your command, from the period at which you first separated from Lieutenant Colonel Pack, during the remainder of the day of the attack?

A. I proceeded as far as the west side of the buildings of the Jesuit's College, without any considerable loss of men, when, in bringing up the light three-podnder, which was attached to my column, in order to force an entrance into the principal

gateway, the enemy suddenly appeared in great numbers, at every window, and at the top of this building, and from the barracks on the opposite side of the street, and at the end of the street, with some ordnance. On a sudden the whole of the leading company of my column, and every man and horse at the gun, were killed or disabled. It was absolutely impossible to possess ourselves of this very eligible situation, and equally impossible to penetrate further up the street. I was therefore necessarily obliged to fall back, and throw myself, with about 140 men, into a house, about 140 yards removed from the Jesuit's College; the remaining part of the column dispersed into several houses adjoining; and those that were unable to enter were generally either killed or wounded. After having held some conference with Colonel Pack, respecting my remaining in so bad a post, I thought it my duty to detach an officer and ten men, to communicate with General Craufurd's column, respecting the post I then occupied, and the consequence that might result from his approaching the town in the same manner. I have since learnt that every man of this detachment was either killed or wounded in opening this communication, and that the officer, with great difficulty, escaped. I defended this post for nearly three hours, with the loss of a serjeant and 14 men killed, 5 officers, and 82 men wounded. An officer from the enemy then appeared with a flag of truce, which I conceived could have no other object than an offer to surrender the troops which had been immediately opposed to me, and having consulted the other officers of my division, I agreed to give him a parley. The firing from the top of my post was necessarily ordered to cease; and availing themselves of this circumstance, the enemy poured in numbers around my post, when finding that, from the few men I had left effective, and the overpowering numbers of the enemy, any further

resistance was vain, I surrendered, with the concurrence of the rest of the officers. Myself and the other officers were marched, under an escort, to the fort, and the men, who were able to leave the house, were carried off to some prison.

Q. Can you state the original strength of your division?

A. It would be extremely difficult to state that accurately, from the circumstance of the tail of our column not being sufficiently up, owing to the extreme badness of the road, and the impediment the gun had created; but I should conceive we had pretty well up, when I was at the Jesuits College, to the amount of 250 men, 140 of whom only I was able to get into the house, it would not hold more; the rest I was obliged to desire to get into any other house, and protect themselves in the best way they could.

Q. Did that number of 250 men, include the artillery?

A. No.

Q. What number of artillery men were there attached to the gun, which you state accompanied your column?

A. I think there was a sergeant and four men, besides the gunner drivers.

Q. State, as accurately as you can, the number of your division, which remained at the time of your surrender?

A. I can only answer as to the post I occupied; deducting the killed and wounded from them, there were about 40 men able to march.

Q. At what hour did you surrender?

A. To the best of my belief at eleven.

The witness withdrew.

Lieutenant Colonel WILLIAM GUARD sworn.

The Third Charge was read.

Examined by the Judge Advocate.

Q. Did you command the 45th regiment on the 5th of July?

A. I did.

Q. Describe the operation of that regiment from the period at which you commenced your march in the morning, till the time when you gave the command of it, as I believe you did, to Major Nichols; and state the operations of that division with which you marched from the Residencia, till the period of your junction with Brigadier General Craufurd?

A. Having previously occupied the roads by which we were to enter the town, I moved forward at day break, on the morning of the 5th of July, with the 45th regiment, in two columns, consisting each of four companies, retaining the command of the right wing myself, whilst the left was under the direction of Major Nichols. Having proceeded about three quarters of a mile, the columns met together, in consequence of the junction of the two roads; and I was under the necessity, in conformity with my orders, to make a considerable detour to my right, by which means I did not reach the Residencia, the post I was ordered to occupy, until three or four minutes after the left wing, under Major Nichols, whom I found in the act of breaking open the doors of that building. My loss, in reaching that post, was but trifling, having three men only killed. Perceiving some houses in the vicinity, and nearer the banks of the river, which I considered as adviseable to possess myself of, I moved forward with my wing, and recollecting three of them, left a company in each, and returned to the Residencia with the grenadiers.

Hearing a considerable firing on our left, I desired Major Nichols to make the necessary arrangements for the occupation of the Residencia, and acquainted him that I would take the grenadier company with me, and reconnoitre the position of Brigadier General Craufurd's brigade, and return to him immediately. I accordingly returned by the street by which I had entered the town, and turning to my right came into one which led directly towards the great square. I had proceeded about thirty or forty yards, when I came to a very large house, which I thought it would be prudent to occupy with a small detachment. I therefore proceeded to break open the door, but finding it very difficult to effect, I sent back my Adjutant, with a few file, to the Residencia, for the purpose of obtaining the assistance of tools that were left there. He had scarcely returned when I was joined by a picquet of the regiment which had missed me in the morning, and had entered the town with the light battalion; the officer commanding which, brought me General Craufurd's orders to charge down the street with the grenadier company, supported by the picquet. I accordingly did so. I met, for some little time, with no other opposition than the discharge of a heavy piece of ordnance twice, which was posted at the upper end of the street. As I advanced, however, towards the centre of the town, I found the tops of the houses crowded with the enemy, and they opened a smart fire of musketry on us as we passed. When I had got about half a mile, finding the men considerably out of breath, and that a great difficulty occurred in our moving, from the increased fire, I drew off my men to a street on my right; and seeing Colonel Pack, with some of the light battalion, approaching towards the church of Saint Domingo, I crossed the street on purpose to consult him, as, from his local knowledge, he was well acquainted with our situation, as to the practicability of any

further advance through the street leading towards the square. He told me that it would be impossible for me to reach the square, without the loss of the greater part of my detachment. I therefore returned to it, and found General Craufurd, with several companies of light infantry and riflemen, together with a field piece in the same street with my men.

Q. I believe you remained afterwards under Brigadier General Craufurd's orders, during the remainder of that day?

A. I did.

Q. From whom, and at what time, did you receive orders to possess the Residencia?

A. On the 4th, I believe, from General Gower, as well as I can recollect, when I received my instructions.

Q. Were those orders included in the original plan of attack, or were they communicated to the officers leading the columns, to your left, whose operations would naturally be connected with yours?

A. They were not included in the general instructions, they were given to me verbally. I have no knowledge as to the communication being made to any officer who commanded the column on my left.

Q. At what hour did you arrive at the Residencia, as accurately as you are able to speak to it?

A. About seven o'clock I think, as nearly as I can guess.

Q. Describe the position and strength of the Residencia?

A. It appeared to me to be a very strong building; but as I did not enter it I cannot give a very accurate description of it.

Q. How soon after your arrival did you march

with the grenadiers, to form a junction with Brigadier General Craufurd?

A. Immediately on my arrival, after taking possession of the three houses before mentioned. I had no intention of joining General Craufurd, till I received his orders to that effect.

Q. Had you received any orders from, or through Lieutenant General Whitelocke, with respect to the future operations of the regiment under your command, after having taken possession of the Residencia?

A. I did not receive any orders, I conceived that we were to maintain that post.

Cross-examined by General Whitelocke.

Q. Do you recollect my having asked your opinion, after your release on the 8th, as to the truth of the representations that had been made to me relative to the situation of the prisoners, and the danger to which they would have been exposed, from the exasperated state of the inhabitants, had the town been bombarded?

A. General Whitelocke did ask me my opinion, and I gave it, that the prisoners would have been in a very dangerous situation.

Q. Is this the copy of the opinion which you gave to Lieutenant General Whitelocke?

A. I have the original in my pocket, this is a copy of it:

It was read.

“ SIR,

“ 8th July, 1807.

“ In answer to your enquiries this morning, I cannot have the least hesitation in declaring, that it is my opinion, as well from what I saw, as from the reports I heard while I was a prisoner with the enemy, that had the town been bombarded subsequent to our capture, so little were the troops of

the enemy, or the inhabitants of the town, under controul of their officers, that the British prisoners would have fallen a sacrifice to such a measure.

“ I have the honour to be,

“ Sir,

“ Your most obedient humble servant,

“ WM GUARD,

“ Lieut.-Col. 45th regiment.”

“ Lieutenant General Whitelocke, commander-in-chief of the forces in South America, &c. &c. &c.”

The witness withdrew.

Lieutenant Colonel NICHOLS called in again.

The third charge was read.

Examined by the Judge Advocate.

Q. You commanded, I believe, the left wing of the 45th regiment, on the day of attack?

A. I did.

Q. Describe the operations of that wing, from the time at which you separated from the right wing, till the period of your arrival at the Residencia, and all that passed from that time till you evacuated that post?

A. The wings of the regiment never joined until the arrival of both at the Residencia. Of the operations, till the middle of the following day, the 6th, my public letter to General Whitelocke, will give an account. I have a copy of that letter.

Judge Advocate.—If Major Nichols’s giving this letter in as part of his narrative is not objected to by General Whitelocke, there is no objection to its being now read, as the answer to the question.

A. As far as it relates, it does not take in the whole of the time. It was written in the middle of the 6th.

It was read.

“ SIR,

“ According to the orders received, I occupied the Residencia de Barbones, before the advance of the right column under Lieutenant Colonel Guard, who, on finding that, advanced rapidly with the grenadiers up the Calle de ——— with an intention of communicating with Brigadier General Craufurd, from whence I awaited his return.

“ I possessed myself, in a very short time, of all the adjoining houses of consequence, and cleared all around me of armed bodies, though much annoyed at times by snipers.

“ I waited with anxiety the return of Lieutenant Colonel Guard, or some orders from General Craufurd. These events not occurring, and the Calle de ——— being occupied in great force by the enemy, I judged it consonant to my orders to protect the right flank of our army, by stationing my own companies in the Residencia, which is a very large building, and completely commands the principal retreat of the enemy in this quarter.

“ I had a hope that we should have joined some other column, particularly as at noon yesterday an union was hoisted on a large building seven or eight hundred yards in our front; to this I did not advance, as they appeared to retain their position very well, and our colours being in view, they could have retired, if necessary, under the protection of this column. To my great mortification that colour was withdrawn about three P.M. and has not flown in our view since.

“ This morning all intercourse has been much more difficult, the enemy have pressed more upon us, but always retreated before our parties.

“ Yesterday we took possession of two brass four-pounders spiked, but the ammunition I have luckily procured, and shall, I believe, have them drilled this morning.

“ Captain Whittingham arrived to-day with the 40th grenadiers, about one o'clock P.M. and

whilst in communication with Major Tolley and myself, the discharge of a piece of cannon announced the approach of a body of the enemy, which was very soon after made certain by messages from the advanced post under Captain Drew's command.

“ The picquet flew to arms, and the reserve followed with great alacrity ; in ten minutes from their discharge, we charged them in column of sections, and sustained but very little loss in capturing the two brass $6\frac{1}{2}$ -inch howitzers, with which they were rapidly advancing: following somewhat further, we secured their limbers, with which we leisurely retired to the Residencia. One of these pieces being hastily spiked, I hope to drill it before morning.

“ The men have behaved like Britons, and your Excellency may rely on it will continue to do so.

“ Our loss is very trifling ; in all but seven or eight killed, including some of Lieutenant Colonel Guard's column, as many wounded, and five missing.

“ Major Tolley led us in in very excellent style: my dispositions have been the result of our joint opinions, and we have no doubt of being able to retain this important situation during your Excellency's pleasure.

“ By foraging I have most easily subsisted my men, and have enough for two days under my command: our only want is an artillery officer, and a few men to use the cannon, with which we can completely command the beach and streets, or perhaps assist in any attack which your Excellency may direct against the fort.

“ I should not have written one line on these subjects, had not Captain Whittingham particularly requested it. I trust your Excellency will excuse the length of this detail.

“ The enemy have lost in all, in this quarter,

from 50 to 100; and humanity has induced our men to make some prisoners.

“ Major Tolley and myself have held very frequent conversations as to advancing; but, from the uncertainty as to Brigadier General Craufurd’s situation; the enemy’s force, the streets being lined; the weakness and lowness of the intermediate buildings, with the great strength of the large churches; we have not yet thought it adviseable to quit this post, which would not be tenable, in our opinion, if thus abandoned by the chief part of this division.

“ I have the honour to be,

“ With great respect,

“ Your Excellency’s most obedient,

“ Humble servant,

(Signed) “ J. NICOLLS,

“ Residencia,
6th July, 1807.”

“ Major 45th Regiment.

Judge Advocate.—In order to connect your evidence with the letter which has just been read, I must ask you, whether the letter that has been read was that which you delivered to Captain Whittingham to report to Lieutenant General Whitelocke, about two o’clock on the 6th?

A. It is a copy of that letter. Captain Whittingham offered to leave the 40th grenadiers with me, but I declined it, as I thought it of more importance that he should get safely back to General Whitelocke with the intelligence which he had been able to collect of the situation of affairs in our quarter. In about half an hour after his departure the enemy collected again, and seemed to threaten a second attack, but their own cannon being discharged upon them, they retired. About four in the evening, General Gower sent two lines to inform me that hostilities had been suspended till further orders. About seven o’clock General Craufurd came with a similar notification. I

wished to have some private communication with Brigadier General Craufurd as to our situation altogether, but the General thought it would be looked upon as improper by the Spanish general Ellio, who was with him. I therefore remained in ignorance all that night of the unfortunate turn that our matters had taken. The next morning, the 7th, being deprived of the means I had hitherto used of feeding the men, Major Tolley and myself thought it advisable to make a demand from General Liniers of the quantity of provisions we required, as a reason for which I told General Liniers, in the paper I sent him, that it was possible, if our men went out, or I sent out, to procure provisions from the adjoining houses, that the troops on both sides might come to bloodshed again; that quarrels might arise between the troops. I stated my numbers at one half more than I had—600 instead of 400, and received in reply a promise that they should be sent: however none were received, except a very small proportion, (which was given to the sick and wounded of the Spaniards, as well as our own) till seven o'clock in the evening, when a considerable supply of bread arrived, under charge of Captain Baker, I think, of the 9th light dragoons. In the course of the day, about three o'clock I think, I received a letter from Lieutenant Colonel Torrens, the Military Secretary, desiring me to halt on such ground as I might occupy on the receipt of it till further orders. I had also four communications, ordering me to prevent the irregularities which were committing on our side near the Residencia; one contained in that letter from Colonel Torrens, one from Major General Gower, and two from Brigadier General Craufurd. Having only a double sentry, a pair of sentries on the outside, I think it necessary to contradict the assertions made in those letters to me; indeed a Spanish officer, sent to me by General Liniers for that

purpose, voluntarily confessed to me that evening, that there was no foundation for such reports, and that they were completely unfounded. We were employed this day, the 7th, in completing our ball-cartridge ammunition.

Lord Cathcart—From what did you complete your ball-cartridge ammunition?

A. From the limbers I took; I had the means of doing it from the cannisters. I took them to pieces. On the morning of the 8th, I received a verbal message from Brigadier General Craufurd to evacuate the Residencia, and join the main body of the army at the Retiro. As this did not agree with the order of the preceding day, I sent a note to General Craufurd, requesting an order in writing to that effect, as also asking what I should do with my prisoners and cannon. General Craufurd gave me a reply, which was satisfactory to me; in consequence of which I liberated the prisoners, and joined the army with the four pieces of cannon, about twelve or one o'clock.

Q. Describe the position and strength of the Residencia.

A. It occupies a square about 150 yards one way, by 100 or 110 the other, not a regular square; in it were one or two very large chapels and halls, some very large fine wards in the hospital: it is a charitable institution; one third of the whole area, or nearly, was an open space or yard; the half of this presents a lofty dead wall to the street, the other half is surrounded by a slighter one of about ten feet high; it had front and rear entrances. The roof of the Residencia was not commanded by any adjoining buildings.

Q. Was it practicable, in consequence of having obtained possession of the Residencia, and the

adjoining houses, to open a communication with the shore of the Plata?

A. Perfectly so: it borders on the river, and there are not any intervening buildings.

Q. What distance is the Residencia from the shore of the river at its common height?

A. About 250 or 300 yards.

Q. What number of prisoners were taken by the 45th at the Residencia, and in the adjoining houses?

A. We had 43 taken in arms, or else from houses from which they had fired (for it was very difficult to distinguish in that case), and 150 sick and wounded, whom we found in the hospital on our entrance, not including about twenty Spanish surgeons, attending the men who had been wounded on preceding occasions.

Q. Would not artillery, both in men and guns, have been of service to the regiment under your command, both in regard to obtaining possession of the Residencia, and the retaining of that post when obtained?

A. Certainly, of the greatest advantage; and I could have dislodged some of the parties that pressed very much on General Craufurd.

Q. How far was the position at which you were cantoned on the night of the 4th, from that of the light brigade?

A. Rather more than 300 yards, I should think.

Q. How long were you in marching from your cantonment to the Residencia?

A. About three quarters of an hour, I should think; I never looked at my watch at the time. The roads were bad, and I marched slowly.

Q. Did you arrive there about seven?

A. I should suppose so.

Q. Having arrived at the Residencia, at seven o'clock on the 5th, did you, or did you not, remain there without receiving any orders, or having any communication with the commander-in-chief, till one o'clock the next day?

A. I did.

Q. Would a reinforcement from the reserve, under Lieutenant General Whitelocke, or from the corps under the orders of Colonel Mahon, have afforded you the means of co-operating with the different corps of the army engaged in the attack on the town?

A. It would have enabled me to have communicated with Brigadier General Craufurd, which, under circumstances of imperious necessity, I could have attempted without any assistance, and which I should have done without any aid at all, had there been large houses in the intermediate space, which I could have retained.

Q. Do you know of any obstacles arising from the strength of the enemy in that quarter, or of any other circumstances, to prevent such a reinforcement from reaching the Residencia, if orders had been given for that purpose.

A. I know of no serious or material obstacle: I had never heard of any.

Q. State, as accurately as you can, the distance from the cantonments of the light brigade on the evening of the 4th, which you state to have been about 300 yards from your own to the Residencia?

A. About a mile and three quarters.

General Whitelocke—I have no questions to put to Major Nicholls at present.

Examined by the Court.

General Fox—By your saying, in your letter,

that humanity had induced some of your soldiers to make some prisoners—Had you at any time received orders to make any apology necessary for making prisoners?

A. Not by any means; I never received any orders that would require any apology for making them, but just the contrary.

General Norton—Having stated that you arrived at the Retiro about twelve or one o'clock, at what hour did you leave the Residencia? and by what route did you march to the Retiro?

A. I left the Residencia somewhat after ten o'clock, and marched through the town; a delay was occasioned by our being under the necessity of dragging the cannon through the town by hand.

Lord Cathcart—If you had known where the commander of the forces was, would you have tried to have communicated with him on the 5th?

A. Not in the morning; I could not have spared a force sufficient: in the evening I would have attempted it, had I known that Colonel Mahon was so close to me.

General Whitelocke—Major Nicholls having said he would have communicated with me, if he had known where I was, I wish that he should be asked, whether he had any doubt where I was to be found, from the orders he had received?

Judge Advocate—From the orders you had received, did you know where the commander-in-chief was to be found during the 5th?

A. It was not specified in the orders I saw; but I should have sent any information or report I had to make to Mr. White's house, from whence, of course, it would have been forwarded by some of the staff.

The witness withdrew.

Rear Admiral GEORGE MURRAY called in again.

The third and fourth charges were read.

Judge Advocate—When you were first under examination, you may remember, that you were desired to produce a letter you received from Colonel Bourke on the 2d—Have you got it now?

A. I sent into the country in order to get it, but the original letter, by some mistake, has been mislaid; but a copy of it, which was sent at the same time to Captain Thomson of the Fly, I have got, with a letter from me to Captain Thomson, which will certify it to be a copy. This is my own hand-writing.

Judge Advocate—I apprehend there can be no objection to its being read. Is this copy of the letter from Colonel Bourke taken in your own hand, or that of your secretary?

A. That is in the hand-writing of my secretary; the letter in which it was inclosed is in my hand-writing.

Judge Advocate—The letter I am about to offer in evidence, Lieutenant General Whitelocke not objecting to it, is the letter which Admiral Murray stated he received from Colonel Bourke on the 2d of July. Colonel Bourke stating, that he wrote it by Lieutenant General Whitelocke's orders. The letter was directing Admiral Murray to proceed from Point Quilmes to the town.

“Reduction, July 2d, 1807.

“DEAR SIR,

“The General has desired me to communicate to you our plans, and request your assistance in forwarding the service in which we are mutually

concerned; he wishes, in the first place, as much biscuit, pork, and spirits, as will supply 1400 men for three days, to be landed immediately, and a vessel containing provisions to be left at anchor near this place. Our army is now on its march to turn the Rio Chieulo, and come before Buenos Ayres from the westward. The General wishes that some of your squadron may arrive there in the course of this day, together with the reserve, artillery, arms, and store ships, as it will probably be necessary to communicate and receive supplies, if the country should be driven, or our attack impeded by bad weather, or other causes. We are in good spirits, though somewhat fatigued.

"I remain, dear Sir,

"Faithfully your's,

Rear Admiral Murray, "RICHARD BOURKE,

&c. &c. &c.

"Lieutenant Colonel, Deputy
Quarter Master General."

Admiral Murray—In my letter to Captain Thomson, inclosing that order, you will observe, I desired him to send the vessels up, as directed by Colonel Bourke, to the westward of the town, at the same time that the river runs east and west, yet by Buenos Ayres it turns off more north-west; therefore, all the vessels were not to the westward, but they were in the situation in which they could best land what was wanted.

Judge Advocate—Perhaps the best way to introduce this, will be to read the order you sent to Captain Thomson?

A. I wish further to state, that I stated in general terms, in my evidence, that the ships were to the westward of the town; it so happened, perhaps, that all of them were not to the westward of the town, for the river turns more to the north-west, consequently they could not get them all to the westward of the town; but they were so

above the town, as to afford an opportunity of landing the provisions: they were perhaps some of them to the eastward, but they were above the town, and to the eastward of the town.

Judge Advocate—I believe it would save time, if I was to read over a part of Admiral Murray's former evidence; the Court would then see the object I have in view, in the very few questions I have to put to Admiral Murray, on the latter part of the case.

The Judge Advocate read an extract, *beginning* "what measures were taken to secure a co-operation."

A. I do not think it necessary to alter any part of my evidence, except that I have spoken in general terms of the transports and other vessels being to the westward of the town. The town bore a point to the eastward of south; they were in that situation in which I should have put them in order to land the provisions and stores, but the river going east and west, except up by Buenos Ayres, they would be in a situation to land provisions best by being abreast and above the town, and not all to the westward.

Judge Advocate—The letter which Admiral Murray wishes to be inserted may as well be read.

It was read.

"Nereide, 2d July, half past seven, P.M.

"DEAR SIR,

"I have this instant received a letter from Colonel Bourke, the Quarter Master General, a copy of which I send you. The letter I wrote to you, to-day P.M. from the Pheasant, of course, is of no consequence. I must therefore refer you to the one I wrote you from the Nereide this morning, and request you will get to the westward of Buenos Ayres, as the Colonel, in his

letter, mentions, that the General means to go that way. I directed (this morning) before I wrote you from the Pheasant, that the Lady Delaval should have bread put on board her from the victualler, and sent to you for the army, in the event of their coming to the westward. I shall now direct the ordnance vessels, &c. as mentioned in Colonel Bourke's letter, to go with her and join you. This contradiction of orders is owing to change of circumstances, which must be expected in these times; but I am convinced, that in all changes your zeal for forwarding the service will always be the same.

"Believe me,

"Your's faithfully,

"GEORGE MURRAY.

"P.S. When I say to the westward of Buenos Ayres, I only repeat Colonel Bourke's words; but you must be the best judge of the spot. I rather think you will not be able to get to the westward yet, particularly with the valuable ordnance ships. You will of course use your discretion."

Judge Advocate—That letter is not strictly evidence, because I ought to bring out the same facts by examining Admiral Murray; but, understanding that General Whitelocke has no objection to it, it will save time if that letter is entered—Was, or was not, any plan for a combined attack upon the town of Buenos Ayres ever proposed to you?

A. No regular plan was ever proposed of an attack upon the town: but the General observed, that he meant himself to attack from the westward of the town, and wished for any assistance we could give him when there.

Q. Were you ever consulted, or had you any knowledge of the plan of attack which actually took place?

A. None.

Q. Are you of opinion, that a combined attack upon the town would have been practicable or expedient?

A. I think it would.

Q. If such an attack had been proposed, what assistance would have been in your power to have rendered from the ships, the boats of the fleet, and the gun-boats?

A. I think gun-boats, and such armed vessels of easy draught of water, would have been of essential service in the attack, in co-operating with the army.

Q. Will you state what passed from the arrival of the fleet off Buenos Ayres, till the signature of the treaty?

A. The gun-boats, on the 4th of July, were got in near the town of Buenos Ayres, but not near enough to act: boats were directed to sound during the day and night, to endeavour to ascertain the depth of water; and Captain Thomson reported to me, that he himself had sounded, and found the channel very intricate, and the depth against the town from seven to eleven feet water, and in twice the length of the boat seven feet again, so that vessels drawing more water could not be depended upon to act. On the 5th, he had with difficulty got the gun-brigs and gun-boats in that situation above the town, to enable him to move down the gun-boats and two of the armed schooners, to assist in the attack, if necessary. That he had on the 5th been employed in landing provisions and spirits for that part of the army commanded by Sir Samuel Achmuty; that he had likewise landed musket-balls; that the situation of that part of the army commanded by Sir Samuel Achmuty, by their marching into the town, prevented him at that time from making use of the gun-boats, lest he should fire upon our own people; that the next morning, four of the gun-

boats were placed, and opened their fire in a situation that appeared likely to have effect, and continued firing till a truce was made. The boats were kept there at the time the truce was made, and, I think, until the preliminaries were signed. I received a letter from General Whitelocke requesting to see me. I would wish to ask General Whitelocke whether he has any objection to my producing that letter. It is the letter which he wrote to me on the 6th.

General Whitelocke—I have no right, I believe, to object to it.

Adjourned to to-morrow morning ten o'clock.

TWENTY-FIFTH DAY.

TUESDAY, MARCH 1, 1808.

Rear Admiral GEORGE MURRAY called
in again.

Examined by the Judge Advocate.

Q. Have you that letter which you stated yesterday, that you received from General Whitelocke?

A. I have.

Admiral Murray produced it.

Judge Advocate.—General Whitelocke, do you admit this letter to be your hand writing?

General Whitelocke.—Yes.

It was read.

“ Plaza del Tauros, 6th July, 1807.

“ My Dear Admiral,

“ I arrived here about an hour since, in order to ascertain what more can be done by the gallantry and exertion of the army under my command, whose sufferings in every way since I had the pleasure of seeing you, have seldom, under any circumstances, been exceeded. Of one thing you may be assured, and that is, that South America never can be English: the inveteracy is beyond belief of every class of inhabitants. I hope you will come here without a moment's loss of time, as I am sending General Gower to

Liniers, in consequence of a letter I received from him this morning.

“ I am truly yours,

“ J. WHITELOCKE.

“ Craufurd is prisoner. The four gun-boats have been working with great effect, and if the business goes on, naval assistance, in short, will go a great way towards the accomplishment of our plans.”

Judge Advocate.—Will you proceed to state what you did in consequence of that letter?

A. In consequence of the letter I received, I was going from the *Staunch* gun-brig, where I then was, on shore to the General. Captain Thompson of the *Fly* came from the shore, and informed me he had been obliged to have a guard from head quarters, to protect him to his boat, which guard was returned; it then being dark, and many of the enemy's horse seen near the place of landing, it would not be safe for me to land that night, as head quarters were some little distance from the shore, and no guard on the beach. I therefore returned to the *Nereide*, and went to the General the next morning. I found him at the Plaza del Tauros, at the top of one of the houses; General Gower, Sir Samuel Achmuty, and General Lumley, were there likewise. The General informed me of the situation of the army, and the misfortunes that had befallen it; that he had received the preliminaries of a treaty from the Spanish General Liniers, by which the great point was agreed to, that of getting back all our prisoners taken in South America this war, which was a great object, and without which, according to his instructions, nothing he could do would be complete; that better terms could not be procured; that if the business went on, he would expect every assistance from me, which I assured him he should have; he continued to observe that

it could answer no purpose to go on with it, as South America never could be conquered by the English, as we had not a friend in the country, which the inveteracy of all classes against the English had proved. I told the General before these terms should be agreed to, I thought he had better consult with the General Officers upon it. He told me he had already their opinions, which was the same as his, which was, that the terms should be signed, as going on could answer no purpose, as he was assured from good authority, that if hostilities were renewed, the prisoners (meaning General Craufurd's brigade) would all be put to death. I told the General that he must know more of the situation of his army and what he could do than I possibly could, but that I could not agree to these terms, without first consulting the next officer in command to me, then at Buenos Ayres. Admiral Stirling being left in the command of the line of battle ships at Monte Video, Captain Bayntun, who was the next, and with me at Buenos Ayres, I immediately communicated with; he was then at the top of the same house: I told him what had passed, and asked what his opinion was as to the necessity of signing those terms. He told me he thought I could not possibly do otherwise than sign them, for that the General must be the best judge of what the army could do; that if I did not sign them, I must, of course, take all responsibility upon myself, for any thing that might happen afterwards, although I could only have to do with the navy. General Gower then explained to me more fully the terms that were proposed, as they were written in Spanish, and on asking him if better terms could not be procured, he said, No; that he had endeavoured to get better, but the Spaniards would not hear of it; and that it was even with very great difficulty that he had prevailed on them to let us keep Monte

Video for two months instead of one, which they had at first proposed. Under these circumstances, and believing that from the disposition of the inhabitants we should not be able to keep that country with the force then in it, I signed the treaty.

Q. Can you state the number of gun-boats and other boats of easy draft of water, which could have carried guns of any description, to co-operate in the attack of the town, if any plan of a combined attack had been acted upon.

A. Four gun-boats were at Buenos Ayres and two schooners, which might have been employed, carrying guns of, I think, twenty-four pounds, Spanish guns. Do you mean the number of guns, or the number of vessels?

Judge Advocate—Both, as far as they apply to the practicability of carrying guns.

A. I think eight might have got up; six gun-boats and two schooners. Two more gun-boats were left at Barragon; they carried a twenty-four pounder each; the schooners carrying two of the same calibre as bow-guns, and, I think, carronades in her sides; the guns only could have been of any great service, being heavy metal.

General Norion.—How many carronades would the schooners carry?

A. I cannot perfectly recollect; I think six, one, and eight the other; I am not positive as to the number they carried, only the bow guns, being heavy guns, would be of more consequence.

Q. Might not the boats and launches of the men of war have been fitted up with guns, and employed in the same service?

A. They certainly might have been of service in fine weather; but the changes at that season of the year were so sudden, and a very heavy sea getting up in consequence of the frequent gales, that

it would have made their acting very precarious; for even the gun-boats, which were much larger than the men of war's launches, would have been swamped by a gale on the 2d, had they been up there instead of being under Quilmes, where the water was much smoother, for I never in any river saw such a sea as frequently happened while I was there, when the wind blew strong, and a weather-tide; and I believe that General Whitelocke had not the most distant idea of any assistance from the navy in the attack of Buenos Ayres, after landing at Barragon, except that of being supplied with provisions, if he should be in want of them, and landing the heavy artillery to the westward of the town, and that only on the 2d, when I received his letter; for no doubt, I believe, was entertained by any body but that Buenos Ayres would have been taken by the army without difficulty.

Cross-examined by General Whitelocke.

Q. Were not the transports left at Monte Video of too great draft of water to carry up, and were not the troops removed from those transports, and doubled up in the others on that account?

A. Two or three were left at Monte Video, and the troops, of course, removed to others: the Bologna was one; she was an ordnance ship, and had a great deal of ordnance stores in her, though she had brought troops from the Cape. The Chapman was another left on account of drawing too much water: another small transport was left from being leaky. I do not at present recollect any other.

Q. Did you not understand that my reason for not fixing upon any specific plan, was the want of correct intelligence, and that I therefore meant to take the position to the westward of the town, and then communicate with you upon the further operations?

A. I certainly understood from the General that he should see his way better when he got up to the place, and that his intention was, that he meant to attack from the westward of the town; but I did not understand from him that he expected any assistance from the navy, more than I have before stated, for the General knew that the ships could not be got in there. He requested, when at Barragon, that I would send some transports towards the town, in order to make it appear to the enemy that he meant to attack in another place; but, as I before stated, I do not think that General White-locke expected assistance from armed vessels in the attack of the place, but merely to cover the shore for landing provisions, and for landing the troops at the first; for he had frequently expressed that he only wanted me to land his army, and he would answer for the rest.

Q. Did you not always understand, that by the westward of the town the side of the Tauros was meant?

A. I did.

Q. Could the schooners have approached sufficiently near to make any effectual use of their carronades against the town?

A. I think during a part of the flood tide they might, but they could not have remained there, I think, the whole of the tide; and, with the wind on shore, would not have been able to get off.

Examined by the Court.

Lord Cathcart.—The Admiral, I think, has not stated of what nature the carronades were?

A. I am not positive what metal those guns had in their sides, the bow guns being of the most consequence. The carronades, which were in most of the vessels, were generally, I think, 9-pounders, but I am not positive of that; 12-pounders were the

largest, I think, that we had, but I am not positive as to the metal they had in their sides.

A Member.—Could you not, from the ships, have furnished implements that would have been of material use in forcing the barricadoes and doors in the town; and were you at any time applied to to furnish such implements?

A. Certainly, iron crows might have been furnished from the ships, if they had been required; but I had no application for that purpose, nor did I know that they were wanted.

Sir John Moore.—At what distance were the men of war from Buenos Ayres on the 4th, and morning of the 5th?

A. The sloops of war were never nearer than five or six miles, as they then were lying in sixteen feet water. The gun-brigs were above the town, and, I believe, some were a mile and a half, and some two miles from the town, or they might be a little more; when I say the town, I would wish to be understood the shore above the town. On the 5th they were moved nearer in, and on the night of the 5th, or the morning of the 6th, early, four gun-boats were placed very near the town, between the Plaza de Tauros and the citadel, and well within point blank shot of the citadel. The two schooners were likewise moving down at the time the truce was made, one of which had been of service in dispersing, by her shot, some of the enemy from a church, at least, this is reported to me officially by Captain Thompson.

The witness withdrew.

Judge Advocate.—I think I ought to state to the Court, that Admiral Murray, having spoken to communications and to reports which he has had with and received from Captain Thompson, whom we understand to have been the captain superin-

tending the gun-boats, and Captain Bayntun of the navy, I think I ought, in correctness, to call those officers, with a view to confirm the evidence already given by the Admiral (what I am stating is more for General Whitelocke's consideration) as to the reports and communications received by Admiral Murray from those officers; at the same time, unquestionably, it does appear to me, that the facts which have been stated by the Admiral do not require any confirmation; the circumstances which are material to my view of the case, undoubtedly, appear to me to be proved; but I ought not, and certainly have no wish, to debar General Whitelocke from any benefit he thinks he may derive from the cross-examination of those witnesses, advantages, which occasionally, undoubtedly, are considerably greater than any he could derive from the examination of those witnesses in chief. They are now in attendance, and I am prepared to call them, if General Whitelocke expresses the slightest wish I should; if he expresses no such wish, it must be taken that the facts stated by Admiral Murray are admitted.

General Whitelocke.—I am so perfectly and completely satisfied with what Admiral Murray has stated, that I have not the least desire for any confirmation of those facts.

Judge Advocate.—I have received this paper from Brigadier General Craufurd, containing some amendments he wishes to have made in the evidence he has given. I think I ought to read them to the Court; and, undoubtedly, if General Whitelocke objects to those alterations, it will be right to call Brigadier General Craufurd in again, to give him an opportunity of explaining; if he makes no objection they may stand.

General Whitelocke.—Mr. Harrison is out of Court. I should be obliged to you if you would postpone that till his return.

Captain HENRY WILLIAM DAVENPORT
sworn.

The Third Charge was read.

Examined by the Judge Advocate.

Q. Are you the senior surviving officer of the Sixth Dragoon Guards?

A. I am,

Q. State the orders you received on the 5th of July last, and the operations of your regiment in pursuance of those orders, from the time you moved from the cantonments, where you had remained the night before, during that day?

A. I can only state as to the operations, for I received no orders. Colonel Kington received the orders, and I never heard them from him.—On the 5th of July, the 6th dragoon guards, under the command of Lieutenant Colonel Kington, evacuated their cantonments at six in the morning. Some delay was occasioned, owing to Colonel Kington missing his way, and we did not arrive in the entrance to the city till seven, where we found two troops of the 9th light dragoons, in whose charge were two field-pieces. Lieutenant Colonel Kington took the command of the whole of the troops mentioned, and entered the city, one of the field-pieces being advanced in front of the column, the other left stationary in the rear, with thirty men of the 6th dragoon guards, and an officer. We advanced as far as the second square, without the enemy firing upon us; and until we arrived there the silence of the town struck me forcibly; from that point we advanced under a gradually increasing fire, it increased as we advanced. About the second square Colonel Bradford, the Adjutant General, came up with orders to Colonel Kington, with the purport of which I am not acquainted. When we arrived at the fourth square, I think, but I cannot be certain, whether it was

the fourth, I am certain it was at least the fourth, the enemy's fire became more heavy and destructive than it had been at any former period. The 6th dragoon guards attempted to advance beyond the point. Lieutenant Colonel Kington and Captain Burrell fell; after which Major Piggot, of the 9th light dragoons, came up to the head of the column, and finding it impossible to advance beyond the point, was retreating to the right, supposing the streets to be intersected at angles. I suggested to him the propriety of our retreating to the rear, if we retreated at all; in consequence of which he pursued the latter measure. The gun which was in front, I ordered to the rear, and we retreated in files under the cover of the houses, beyond the first square, in the entrance of the street, where we found the gun which had been left, in rear of which were some troops of the 9th light dragoons, under Lieutenant Colonel Witherington, which troops we had not seen on entering the town. At this period Captain Foster, General Whitelocke's aid-du-camp, came to the retreating column, to whom I communicated our transactions; he immediately recommended our advancing again to the first square, which I had represented to him, and there to take up a position in the houses; this being effected, Captain Foster, from the house which I occupied, which was a very commanding situation, reconnoitred from its top, and it was there we first saw the British colours flying on the Plaza de Tauros, to the left and to the right, in a position which we then conceived to be the Residencia, but that latter point was by no means ascertained. Colonel Bradford then came to the post, which he expressed to me he conceived as tenable; and after reconnoitring every part of it, made the following arrangements;—a picquet of 80 men in the further extremity of the square, the two field-pieces placed opposite the only two entrances into this square; he

again reconnoitred the situation in the evening, with Captain Foster, to the best of my recollection, I think he was with him, but cannot be positive of that, and observing a very large church within fifty yards, which entirely commanded the whole of our position, he desired me to take possession of it; we had been a good deal annoyed from this church. In consequence, I sent a party of thirty men, with an officer, to Lieutenant Colonel Witherington, who, with the 9th dragoons, occupied that part of the position nearest the church. This party Colonel Witherington sent back, and ordered a party of his own regiment to take the church, which was performed. I do not recollect that I have any thing else to state, except that I remained two days in that situation, and that I then received orders from Colonel Bradford to come out of the town to him, when he communicated to me what had taken place.

Q. You retained that position two days?

A. Yes, we did. We were constantly fired at by the enemy's stragglers, who were placed in positions to fire at us, whenever they had an opportunity. During the two days we were there we received provisions from the rear from the commissariate. I have omitted one circumstance, if it can be inserted, which is, that we could plainly discern two guns, either in the citadel or in some fort, we could not exactly tell where they were, but thought they were in the citadel. Those guns played upon us the whole time from the second square. I have since understood, from one of the hostages, they were two large 24-pounders.

Q. At what hour did you commence your retreat?

A. I should imagine half past nine or ten o'clock, as near as I can state.

Q. How soon after this did you see Captain Foster?

A. Immediately on our arrival at the extremity of the town.

Q. How soon after that did you take possession of the house which you have described?

A. Immediately, with as little loss of time as possible; not a quarter of an hour.

Q. When did Major Piggott give up the command of the 5th dragoons, which you state he put himself at the head of as soon as Lieutenant Colonel Kington and Captain Burrell fell?

A. When we met the troops of the 9th, under Lieutenant Colonel Witherington. May I ask the indulgence of inserting what I have omitted—one strong reason why we were obliged to retreat was, that the enemy were concealed, and we could not get into the houses; the barricadoes were so strong we had not the means to force them.

General Whitelocke.—I have no questions to put to Captain Davenport at present.

Examined by the Court.

Lord Cathcart.—How were the carabineers armed on the 5th of July?

A. They had their carbines and ammunition.

Q. Had they any swords?

A. No swords.

Q. Had they any bayonets?

A. Yes they had their carbines and bayonets, with ammunition.

Q. State how many rounds they had?

A. As nearly as I can recollect they carried about thirty or forty rounds.

Q. Their pouches were full?

A. Yes; and they carried from thirty to forty rounds.

The witness withdrew.

Captain FRAZER called in again.

The Third and Fourth Charges were read.

Examined by the Judge Advocate.

Judge Advocate.—Before I ask any questions of Captain Frazer, I had perhaps better read over one or two questions, with his answers in his former evidence, which applies to the subject on which I am about to examine him.

The Judge Advocate read an extract, *beginning* “ what measures preparatory to the attack,” *ending* “ to see that those orders were carried into execution.”

Judge Advocate.—The parts of the orders to which Captain Frazer alludes in that part of his evidence, are these: the left division of the 95th is to receive its orders from Colonel Pack, the right from Brigadier General Craufurd; two 3-pounders to follow these columns, one each; the carabineers to move up and cover two 6-pounders, which will cover their advance from Mr. White's, and remain with them. I believe there is not any other part relating to the artillery?

A. No, there is no other.

Q. The orders which you allude to in one of your former answers, with respect to the disposal of the artillery on the 5th of July, applying only to two 3-pounders and two 6-pounders; four pieces in all—State what orders you received with regard to the remainder of the artillery under your command, and what you did in consequence of those orders, stating in your answer the number of guns you had under your command on that day, and their calibre; indeed, I believe I can save you some trouble, because I think you delivered in a return of the whole?

A. The return which I have already delivered,

includes those six guns which were taken on the 2d of July, and which were placed in position; there were, besides the four guns mentioned in the orders, two six-pounders remaining besides those placed in position, and prepared to move and to follow such orders as might be issued; but no further orders were received on that day respecting the artillery.

Q. What was the position of those two guns?

A. Those two guns were placed immediately near to the guns which were placed in position, that is to say, in the *Corrallis de Miserere*.

Q. Near the cantonments of which part of the army were those placed?

A. The Court will understand it best if I say, the *Corrallis de Miserere* is a small open spot known by that name; they were placed in that part of the *Corrallis* immediately opposite to the road leading from the fort to the open spot so named.

Q. Which of the cantonments were those guns placed nearest to?

A. At this moment I cannot immediately recollect the cantonment: I have here a plan of the *Corrallis de Miserere*.

Q. How soon did you see Lieutenant General Whitelocke on the morning of the 5th?

A. Immediately after returning from firing the signal for the assault; probably about seven o'clock, or a little after seven.

Q. Having stated, in a former answer, that you had received a strict injunction from him not to leave his side during the course of the following day—That injunction having been given on the 4th, did you comply with that injunction?

A. From the moment of my first seeing General Whitelocke, on the morning of the 5th of

July, I did not leave the side of his Excellency, except in two instances, when I was, by his order, sent forward to examine and to report to him whether the Spanish colours in the fort were struck.

Q. At what period of the day did you receive those orders? and how long, as nearly as your memory will enable you to state, were you absent from Lieutenant General Whitelocke, in each of those instances, in executing them?

A. I received the first order probably between two and three in the afternoon, and was at that time absent certainly not half an hour. I received the second order probably a little after three, and was then absent fully half an hour.

Q. I believe the cannons which gave the signal were in the centre?

A. They were so.

Q. And it was there you first joined Lieutenant General Whitelocke?

A. I first joined Lieutenant General Whitelocke at the Corrallis de Miserere, near those pieces of artillery which I have just been speaking of.

Q. Having stated that you remained by Lieutenant General Whitelocke's side, by his express injunction, during the whole of the day, except for one hour, when you left him, in consequence of two orders which you received—State, as accurately as you can, where General Whitelocke was during that day, beginning from the spot where you first joined him.

A. Lieutenant General Whitelocke was in the Corrallis de Miserere during the whole of that day, except for a very short interval; when, as I understood, his Excellency retired to Mr. White's house, for a very short interval, about two o'clock in the afternoon.

Q. How large is the Corrallis de Miserere?

A. It is understood to be about 500 yards in length one way, and about 600 the other; it is also a term which applies to a quarter of Buenos Ayres; it is an uncertain open space.

Q. How was Lieutenant General Whitelocke employed during this day? Was he riding or walking?

A. His Excellency was at first on horseback, subsequently dismounted, and remaining generally dismounted during the remainder of the day, and in general within 30 yards of the house which had been the head-quarters of the second in command.

A. Is the Corrallis de Miserere on such an eminence that the streets of Buenos Ayres could be seen from it, and the march of the invading columns?

A. The immediate entrance into Buenos Ayres, at the distance of about 350 yards from that particular house which I have last mentioned, or at the immediate end of the Corrallis de Miserere, is higher ground, so that you cannot see the entrance into the town, nor, excepting in such an open space as the Corrallis de Miserere, can you, in any part of the suburbs, see above 150 yards, owing to the intersections of the squares, and the high hedges of the orchards.

Q. Then, if I understand the answer to the question, neither the streets of Buenos Ayres, nor the march of the invading columns could be seen from the position in which Lieutenant General Whitelocke was that day?

A. They could not be seen.

Q. Then, as Lieutenant General Whitelocke did not move from the Corrallis de Miserere the whole day, with the exception of the short interval during which he was at Mr. White's

house, and could not see any thing of the operations of the army, and you were by his side the whole of that time, with the exceptions you have stated—How was he employed?

A. In the early part of the day, his Excellency sent forwards in the centre some of his personal staff, to bring him information of what was going on: towards the middle of the day, a communication was opened with the brigade on the left; the officer who opened that communication, I think, returned between one and two o'clock, and, in consequence of that communication from Sir Samuel Achmuty, a small party of the artillery men were sent to the Plaza de Tauros.

Q. How soon after you had joined him in the morning, did he give any orders, and what were those orders?

A. I think, that very soon after my joining him, his Excellency sent some of his staff, as I have already stated, into the centre: their orders, I understood, generally, were to bring information from that particular quarter of what was going on.

Q. Were the orders to his staff upon this subject given at once, or at different times?

A. In several repeated instances.

Q. Besides the orders to his staff upon that subject, state what other orders you heard him give on the morning of the 5th?

A. I presume, that the communication with the left was by the immediate orders of his Excellency; but I cannot recollect his sending the officer off. I have no doubt, however, that the officer went in obedience to orders issued by General Whitelocke.

Judge Advocate—My question does not apply only to that order, but to any other orders which were given in the course of that morning: I wish

you to recollect all the orders issued by General Whitelocke on that morning.

A. In the earlier part of the day, on my return, and on my immediately joining General Whitelocke, a part of the 9th dragoons, dismounted, were formed immediately in the rear of the pieces of artillery, placed in position. These dragoons were subsequently moved to the left of these pieces of artillery. Shortly afterwards, his Excellency occasionally ordered some of the dragoons, who were immediately about his person, to pursue some fugitive horsemen, who were escaping from Buenos Ayres.

Q. What was the cause of that change of position in the dragoons?

A. Those dragoons were formed 30 yards in the rear of the pieces of artillery, and, as it was said, with a view to protect them.

Q. I speak of the dismounted dragoons?

A. I speak of the same. It occurred to me that they were not advantageously situated for that purpose; and on observing that to his Excellency, I received his directions to desire the officer commanding the dragoons to move them to the left, and in line with the pieces of artillery.

Q. Was there at any time, during the course of that day, an alarm of an attack upon any part of the reserve?

A. If I understand by the term reserve, such troops as were at the Corralis de Miserere, it appeared to me probable, that, as the town of Buenos Ayres was attacked at both flanks, but not immediately in the centre, the great mass of fugitives would endeavour to escape by the centre. It was therefore strongly impressed upon my mind, during the whole course of that day, that the great mass of fugitives would attempt to rush out by the

centre; but I do not recollect any particular alarm during the course of that day.

Q. Do you mean then to state, that there was no alarm of an attack upon the post which General Whitelocke had that day?

A. I do not recollect any particular alarm; there was a scattered firing, as is usual.

Q. You do not remember any alarm of an attack in particular?

A. There was a considerable deal of scattered fire from these very dragoons—the 9th dragoons—at fugitive horsemen; but, with the exception of that scattered firing, I do not recollect any particular alarm, nor was there any particular alarm.

Q. You mean to state, that you do not remember any thing else but a scattered firing?

A. Yes.

Q. Having stated that you heard no alarm of an attack in particular, is the Court to understand that there was no such alarm of an attack, as to induce Lieutenant General Whitelocke to give any orders upon the subject?

A. You are speaking of the reserve placed at the Corrallis de Miserere: there certainly was no such alarm as to make it necessary to give any direction, with the exception of those I have stated, for the occasionally sending a few horsemen to pursue the fugitives, which was done.

Q. By the reserve, I understand all the troops which did not enter the town with the invading columns.

A. I before stated, by the reserve I understand those troops stationed in the Corrallis de Miserere only. The troops which entered the town may be considered as those divided into two flanks; the troops which attacked in the centre cannot ex-

actly be said to have attacked; they were to retain a position, but they did not strictly belong to the reserve; they were in the town.

Q. You mean the 6th dragoons?

A. I do.

Q. When I make use of the term reserve, I mean all the troops which did not form a part of the invading columns, in which I include the 6th and 9th dragoons; and then I ask whether there was such an alarm of an attack upon any part of the reserve, as to induce General Whitelocke to give any orders upon the subject during any part of the 5th of July?

A. I do not recollect there being any such alarm.

Q. Was there, or was there not, any such alarm as to lead you to give any opinion to Lieutenant General Whitelocke upon the subject?

A. There was no alarm; but it seemed so probable that the great mass of fugitives would endeavour to escape from Buenos Ayres by the centre, that I conceived the guns placed in position might be immediately required to play; and I did therefore, speaking as an artillery officer, feel it my duty repeatedly to request General Whitelocke to remove from the immediate front of the battery to either flank, that the front of the battery might be open.

Q. Was that the only advice and opinion you gave upon the subject?

A. It was, on that particular subject, the only opinion.

Q. State any other orders which you recollect having heard General Whitelocke give in the course of that day?

A. I think, towards the beginning of the afternoon, Lieutenant Colonel Bradford was sent to

the centre with some orders, the import of which I did not know.

Judge Advocate.—I wish to save the Court the time and trouble of hearing so many questions put. You have stated that Lieutenant General Whitelocke remained in that position during the course of the whole day, it is important to know how he was employed. I have repeatedly desired you to state all the orders you heard him give, and the manner in which he did employ himself during that extraordinary day. State all which you recollect to have passed during that day; the fact stands at present, that you joined him at seven in the morning, and remained on this spot, 500 yards broad, and 600 long, till five or six in the evening—I wish to know how General Whitelocke was employed during the whole of that time?

General Harris.—Captain Frazer has got on as far as three o'clock; perhaps if he goes on hour after hour, he will best bring it to his mind, and answer the question.

Q. How was Lieutenant General Whitelocke employed during the whole of the day of the 5th of July?

A. With the exception of those particular orders which I have stated, his Excellency was walking backwards and forwards, occasionally issuing those orders, and anxiously waiting the issue of the assault.

Q. Is that all you can remember of the employment of Lieutenant General Whitelocke during that day?

A. I am convinced that I cannot understand the questions in the same point of view in which you understand them. I do mean to say that his Excellency was employed no otherwise than in walking about, expressing anxiety respecting the

issue of the assault, except occasionally giving those orders.

Q. At what time did you leave the Corrall de Miserere, and did you accompany Lieutenant General Whitelocke to head quarters?

A. I left the Corrall de Miserere, as I believe, about half past four, and I did accompany General Whitelocke to Mr. White's, which was head quarters.

Q. How far was Mr. White's house from the Corrall de Miserere?

A. From the immediate part of the Corrallis, where we had been standing, about six hundred yards.

Q. Is Mr. White's house so placed as to have more view of the town than you have described the Corrallis to have?

A. I should imagine that the ground on which Mr. White's house stands is rather higher than one part of the Corrallis, but from neither is there any view of the town; the country is intersected by hedges at every 140 yards; there is no view any where. You can see the tops of the houses and the churches, but not the streets.

Q. You may see the tops of the houses, and nothing more?

A. Yes.

Q. That applies equally to the Corrallis and to Mr. White's house?

A. Yes; immediately from the end of the Corrallis there are houses on both sides of the way. From Mr. White's there are not houses on both sides of the way.

Q. At the time when you left the Corrallis, as you have stated, at half past four with General Whitelocke, had any and what information been received by him, whether the light brigade under

Brigader General Craufurd, and the 45th regiment under Colonel Guard, had been defeated or cut off, or succeeded in their objects?

A. No information had been received, or was received, in the course of that day: the first information was received on the morning of the following day.

Q. After you arrived at Mr. White's house, did you remain with Lieutenant General Whitelocke?

A. I did remain with Lieutenant General Whitelocke, and did remain, with scarcely any exception, at his side till his arrival at the Plaza del Tauros, at one o'clock the following afternoon.

Q. State what passed after you arrived at Mr. White's house, the orders you heard General Whitelocke give, and how he was employed when you separated for the night, and all that passed during that night?

A. On our arrival at Mr. White's house, some orders were given for the more than usual safeguard and protection of the house.

Q. State what those orders were?

A. The orders, I think, were that some of the staff should, with part of the men then in the court-yard, be stationed during the course of the night on the flat roof of the house. There were no other orders that I can recollect. His Excellency sat silent and reserved. I do not recollect at what time I parted with his Excellency on that evening, but I lay down to sleep, and did sleep in an adjoining room.

General Harris.—Immediately on going there?

A. No; some three or four hours after. Perhaps there was some conversation which related to a communication with the right flank being opened; and it was arranged, as I understood, that early the following morning that communication should be opened: I mean all the troops acting

on the right flank. They were divided into two flanks, the right and left.

Q. Can you tell from any communication which you had from Lieutenant General Whitelocke, why no attempt had been made to open that communication during the day of the 5th?

A. I cannot tell, from any communication I had with Lieutenant General Whitelocke, why that communication was not opened on that day.

Q. Was any reason given in that conversation why the opening of that communication would be more easy on the 6th, than it had been on the 5th?

A. There were no reasons given, I do not imagine that there were any.

Q. Having stated that you heard Lieutenant General Whitelocke gave no other orders than such as related to the safeguard of the house, and a conversation as to the opening a communication with the right flank on the next day—Is this all that you can recollect of the manner in which Lieutenant General Whitelocke was employed during the three or four hours which you state passed between the time of his arrival at Mr. White's house, and your separating for the night?

A. Some conversation probably occurred as to the successes or the events of the morning; but as the communication with the right flank was the most important, it has made the strongest impression upon my recollection.

To-morrow being Ash Wednesday, the Court is adjourned to Thursday morning ten o'clock.

TWENTY-SIXTH DAY.

THURSDAY, MARCH 3, 1808.

Captain FRAZER called in again.

Examined by the Judge Advocate.

Q. State whether any thing, and what, passed during the night, and what passed from the time you saw Lieutenant General Whitelocke in the morning, till you set out to the Plaza del Tauros?

A. I have before stated that I slept that night in the adjoining room to the one in which General Whitelocke was. I think that once or twice in the course of the night, General Whitelocke came from that room to the one in which I was, but I do not recollect having spoken to him, or having heard any thing particular, till near day break of the morning of the 6th. At day break I left Mr. White's house, and proceeded to the park of artillery, in the Corralis de Miserere. I was sometime occupied there in making the necessary arrangements, to see whether all the artillery were prepared; and I think his Excellency soon afterwards came down to the Corralis de Miserere, and, dismounting from his horse, walked backwards and forwards near the same spot on which he had been the chief part of the preceding day. I understood that an officer and party had gone to open the communication with the right flank. Some conversation took place with regard to the events of the preceding day; and I think Lieutenant General Whitelocke, intimating his intention to go to the Plaza del Tauros,

did desire me to have the two 6-pounders, which were then, with the park artillery, ready to accompany him. I think, but I am not sure, that this conversation took place before the arrival of an orderly serjeant from the Plaza del Tauros, and who was the bearer of communications from General Liniers, which I understood to have been sent to General Whitelocke at the Plaza del Tauros, and to have been forwarded from thence by order of Sir Samuel Achmuty. General Whitelocke, on opening this letter from General Liniers, shewed it to me, requesting me to translate it, it being in Spanish; looking over it, and partly comprehending it, I replied to his Excellency that I was not sufficiently master of the Spanish language. General Whitelocke then shewed the letter to Capt. Squire, of the royal engineers, who did read and explain its contents to the General. There were no other officers immediately about the person of General Whitelocke at this instant. Major General Gower was distant from the General I think about 30 yards; he was more near I think than any other officer. General Whitelocke shewed the letter to Major General Gower, and I retired to some distance, that I might not appear to wish to hear the conversation that passed between the two Generals. An answer was written, I think, to this communication from General Liniers. General Whitelocke again intimated his intention of going to the Plaza del Tauros; and after some delay, the column, consisting of the 9th dragoons, some mounted dragoons of the 17th, some few infantry men, of what particular corps I do not recollect, did leave the Corrallis, and did march to the Corrallis de Miserere. I think the column marched about twelve, and did arrive at the Plaza del Tauros about one that day; of the precise time I am not sure.

Q. Did you examine the guns at the Plaza del Tauros, and if you did, state the numbers which were

then fit for service, or that might have been made so?

A. Immediately upon my arrival at the Plaza del Tauros, I went to examine the position, for the erection of such batteries as might be erected against the city of Buenos Ayres. I did, therefore, not myself examine the guns, but they were immediately examined, and a report of their state was made to me; and there was eleven pieces of ordnance, from 36-pounders to 8-pounders, which were immediately serviceable, of such guns as had been captured at the Retiro. There were besides, at the Corralis de Miserere, three guns, immediately serviceable, and of sufficient calibre to have been so employed. There were besides, of ordnance spiked at the moment, but which might have been rendered serviceable, ten.

Q. I do not understand you to have stated the number which might have been rendered serviceable?

A. Ten besides the 14. There were, moreover, of ordnance, embarked from Monte Video, and which I presume might have been landed in the course of a few hours, 12 pieces of ordnance, making a total of 36 pieces of ordnance, from 36-pounders to 8-pounders, which last I considered as the lowest calibre eligible for this service. It may, perhaps, be explanatory to remark, that after having examined the Spanish arsenal, that I did report to Lieutenant General Whitelocke, that I possessed every means for the erection, and for the service of such batteries as might be required for the above pieces of ordnance. No exact account of the proportion of stores in the arsenal was taken, but I did then, and do now, confidently believe that there were not less than 600 barrels of powder; I mean whole barrels, of 90lbs. each.

Q. Who made that report to you?

A. The report, with regard to the guns being

spiked or not spiked, was made by a corporal of artillery ; but I subsequently examined them myself, and found the report to be correct.

Q. What was your opinion, as an artillery officer, of the facility which the possession of the Plaza del Tauros presented towards the establishment of batteries, and other military operations against the town ?

A. I did consider, and did express my opinion, that the Plaza del Tauros afforded every facility for the erection of batteries against the town of Buenos Ayres—the most eligible situation for their erection having been marked out by Captain Squire and myself.

Q. Were you at any time, and when, consulted by Lieutenant General Whitelocke upon the subject ?

A. Immediately after arriving at the Plaza del Tauros, about one o'clock in the afternoon of the 6th, and after going down to reconnoitre towards the banks of the Plata, from whence the fort was clearly and distinctly visible ; and after going from thence to the top of the amphitheatre of the Plaza del Tauros, from the top of which I was specially ordered to come to General Whitelocke, then at the Retiro, I was asked, in a general manner, as to the power we possessed of erecting batteries against the city, I replied that I would run to the arsenal, at the distance of about 300 yards, and after seeing the resources in ammunition and stores, would give his Excellency a decided answer. I did so ; and I did give to his Excellency the following answer:—"There is an abundance of ammunition and stores, and I will pledge myself to your Excellency, that between 20 and 30 pieces of artillery shall play upon the town to-morrow morning."—Some objections were started, that some of the heaviest guns were spiked ; I replied that I would be responsible they should be un-

spiked. It was observed that the city could not be set fire to, I replied, that the experiment might be made, and that in all events the enemy must be dislodged from that quarter of the city.

Q. What quarter of the city did you mean?

A. That quarter of the city which would be immediately exposed to the fire from the Plaza del Tauros.

Q. State, as accurately as you can, the distance between the Plaza and the fort?

A. In a straight line it is about 1650 yards, always taking our ideas from the large Spanish maps, and from the corrections which our subsequent experience enabled us to judge and to pass an opinion upon.

Q. Would it, or would it not, have been practicable, by destroying any of the traverses between the line of fire from the Plaza to the fort, to have erected batteries nearer the fort?

A. With a view to the destruction of the fort, it might have been probable that batteries would have been erected on the beach, on the low ground against the fort, but the fort is a contemptible work which, battered in breach, would have fallen in a few hours.

Q. Must it have fallen in consequence of the fire from the Plaza?

A. No, not from the Plaza; the Plaza would have been a very improper place to have fired from against the fort, in consequence of the high buildings intervening; the fort is low, but there are high buildings intervening.

General Whitelocke declined asking any questions of Captain Frazer.

Judge Advocate.—Captain Frazer will hear his evidence read, and if there is any thing wrong he will correct it.

It is observed by General Whitelocke, and very properly observed, that the witness may correct his evidence, but that I am not to go into a new course of examination of him. I certainly think so; but if he has a wish to have his evidence read over to him, in order that he may see whether he has or not answered the questions, he has a right to have it read to him.

Captain Frazer's evidence was here read.

A Member.—He has heard the charges read, and he is sworn to tell all that he knows; if he has not told all he knows he is bound to answer it now?

A. I have answered perfectly, in my conscience, to such questions as have been asked of me, confining myself to such questions as have been asked of me.

Withdrew.

Captain SQUIRE called in.

Third and Fourth Articles of Charges read.

Examined by the Judge Advocate.

Q. Did you proceed from the Corral to the Plaza del Tauros, with Lieutenant General Whitelocke, on the 6th of July?

A. Yes, I did.

Q. What was your opinion, as an engineer, of the facility which the possession of the Plaza del Tauros presented towards the establishment of batteries, and other military operations against the town of Buenos Ayres?

A. I did think it a very favourable position for the establishment of batteries; and we had ample means, in consequence of the capture of the arsenal belonging to the enemy, of establishing those batteries.

Q. Would it, or would it not, in your judgment,

have been practicable to cannonade and bombard the town from the Plaza, with the means you had in your power?

A. I did think the batteries would have been effectual.

Withdrew.

Lieutenant Colonel TORRENS called in again.

The Third and Fourth Charges read.

Examined by the Judge Advocate.

Q. Were you with Lieutenant General Whitelocke during the 5th of July?

A. Part of the day. I was repeatedly absent from him in the course of the day.

Q. State what orders you received from Lieutenant General Whitelocke during that day, as far as your memory will enable you. I mean not only the orders you received yourself, but the orders he communicated to others?

A. It having been reported, about nine o'clock that morning, that a body of the enemy's cavalry had formed in our rear, Captain Whittingham and I went by the General's desire to reconnoitre. We took 16 mounted dragoons, and about 30 dismounted men of the 9th dragoons. On proceeding a little way, I found that this force was more considerable than I imagined; and I sent Captain Blake, the Assistant Adjutant General, to report that I thought it my duty to pursue them. We were absent on this duty about three hours, when we returned to the Corral, having succeeded in dispersing this force, which might have consisted of about 300 horse. About three o'clock General Whitelocke desired that I would write a note to Colonel Witherington, who commanded in the centre, to express his surprise at having been told that our men were plundering the abandoned houses, and

ordering him to use every exertion to prevent such irregularity, when Captain Whittingham returned from having reported Sir Samuel Achmuty to be in possession of the Plaza del Tauros.

Q. Were you present when Captain Whittingham received his orders from General Whitelocke?

A. I was. The General desired I would write to the Brigadier General, ordering him to maintain his position, and remain on the defensive until he joined him the next morning. Those were the only orders I received.

Q. I wish to know whether you was present at the time Lieutenant General Whitelocke gave his orders for Captain Whittingham to proceed?

A. I was.

Q. Before you state what was done in consequence of that report, I wish you to state all that passed, if you was present, between Captain Whittingham and Lieutenant General Whitelocke, on the subject of those orders, in consequence of which he set out?

A. Captain Whittingham, myself, and some other officers of the staff, were walking together on the Corral, a little after two o'clock, Lieutenant General Whitelocke came up, and said he did not like to order any person, but would feel himself obliged to any officer who would go to the left, and bring information relative to Sir Samuel Achmuty's situation. Captain Whittingham immediately offered his services, and he was desired to collect what he thought a sufficient escort. There were no further orders given to Captain Whittingham that I heard.

Q. Was you present when Captain Whittingham made his report?

A. Yes, I was.

Q. State with what escort he went, and what his report was?

A. Captain Whittingham took 10 or 12 dragoons, and 30 or 40 infantry, I think, I cannot speak with any precision. I understood from him that he proceeded from the Recoleta as a marked point, and then turned to the right and felt his way to the Plaza del Tauros, where he found Sir Samuel Achmuty posted. There were a great many armed people in the way, and he was repeatedly fired at. Having cleared the hedges with his infantry, there was no difficulty whatever in his progress. Captain Whittingham thought it so essential to bring a report to the commander of the forces, without loss of time, that he left the infantry at the Plaza del Tauros, and galloped back with the dragoons. He reported Sir Samuel Achmuty's success, having taken 30 pieces of cannon, above 600 prisoners, the arsenal, containing stores and ammunition, and had opened a communication with Captain Thompson, of the navy, who commanded the gun-boats. The Brigadier recommended that the commander of the forces should move the head-quarters to the Plaza del Tauros that night. To the best of my recollection, this is the whole purport of Captain Whittingham's report.

Q. Did Captain Whittingham state to General Whitelocke what time it had taken him in going and returning to the Plaza del Tauros, and at what hour did he make his report?

A. He made his report about a quarter before four o'clock. I cannot be accurate as to the time; and he did not, in my presence, or within my hearing, make any report as to the period he had been on the march.

Q. I understood you to say he received the orders to march to Sir Samuel Achmuty, about two o'clock?

A. About a quarter after two, and made his report on his return, about four, or perhaps before that.

Q. You were proceeding to state the order you received from Lieutenant General Whitelocke, in respect to some artillerymen; state what that was?

A. I should have stated that Sir Samuel Achmuty expressed a great want of artillerymen; and a detachment of about 30 was sent to him some time after Captain Whittingham arrived at the Corral.

Q. State any other orders you heard given?

A. No other orders whatever did I receive, or hear given, in my presence?

Q. When Captain Whittingham made his report to Lieutenant General Whitelocke, did Lieutenant General Whitelocke give any, and what reason, for not complying with the wish Sir Samuel Achmuty expressed, that he would repair himself to the Plaza that evening?

A. I understood that General Whitelocke would not quit the centre until he received a report from the right flank, particularly from Brigadier General Craufurd.

Q. With the exception of this order to Captain Whittingham, given about two o'clock on that day, do you know of any other attempt having been made by Lieutenant General Whitelocke personally, or otherwise, to co-operate with and support the different columns of the army?

A. When I returned from the pursuit of the cavalry which I have related, I heard, that during my absence the carabineers, and a detachment of the 9th light dragoons, had been pushed up one of the central streets, and repulsed with loss. About half past one o'clock, the Brigade Major Costley was sent with two or three dragoons, to endeavour to feel his way to the right, but he returned in a few minutes, reporting it to be impracticable. I am not acquainted with any other attempts towards co-operation?

Q. Do you know the amount of the force, com-

posing the reserve of that day. By reserve I mean that part of the army which did not form any part of the column engaged in the attack, or the corps under Colonel Mahon?

A. There were about 1050 or 1100 men of the troops you allude to; but I include in that number near 100 men attached to the commissary department, and 180 left by the different regiments in charge of the knapsacks.

Q. Did you quit the Corral with General Whitelocke on the evening of the 5th?

A. When it became nearly dark I quitted the Corral with General Whitelocke and the rest of the staff.

Q. When you stated that you had not heard Lieutenant General Whitelocke give any other orders than those you have mentioned, did you mean to include what passed at Mr. White's house?

A. No. I heard General Whitelocke, some time after I arrived at Mr. White's house, give orders to his aids-de-camp, to keep watch at the top of the house, and to relieve each other every hour, or every two hours, I don't know which; that was the only order I heard that night. I beg leave to say, that the Lieutenant General may have given many orders without my knowledge; I was frequently absent from him.

Q. Do you, or do you not, know of any reason which prevented Lieutenant General Whitelocke from giving any other support or co-operation to the different columns of his army engaged in the attack, personally, or otherwise, during the 5th?

A. Not having had any conversation directly or indirectly with General Whitelocke, in the course of that day, upon the subject of the attack, I am not acquainted with any of the motives by which he may have been actuated. I had understood that the Lieutenant General waited for reports from

the different columns before he decided upon any and what co-operation.

Examined by General Whitelocke.

Q. Do you remember it being reported to me that three of our colours were seen flying; one towards the centre of the town, and our men upon the top of the building, on which the centre colours were flying?

A. I do remember such a report being made by Captain Forster, and I saw the colours alluded to myself, from an advanced situation.

Q. Do you remember our receiving, in the course of the 5th, and at what time, information of the colours of the fort having been struck?

A. A little past one o'clock some person from the front reported that the Spanish colours at the fort had been struck; I went forward myself, and saw with my glass that they hung only about the flag-staff, the day being remarkably calm.

Q. Had you any reason to suppose, from any thing you heard, or any thing that passed, either before or on the 5th, that any of the General Officers, or others in command, entertained any doubt as to the success of the attack, or apprehension of its failure?

A. I did not hear, either previously to, or during the attack, any apprehension expressed, as to its failure, by any of the Officers about us.

Q. Do you mean General Officers as well as others?

A. Certainly.

Judge Advocate.—Q. Was any other artillery officer than Captain Frazer, to your knowledge, at the Corral, when the artillerymen were sent to Sir Samuel Achmuty?

A. No other officer was at the Corral but Captain Frazer at that time.

Q. At what hour was that report made by Captain Forster?

A. I did not attend much to Captain Forster's report. I cannot say at what hour he made it. I saw the colours myself at about half past one.

Q. Had not all communication been cut off between the reserve and the attacking columns before that report was made; and could a communication have been opened without an armed force?

A. I believe all communication to have been cut off before that report was made; and I do not think it could have been kept up without an armed force.

Q. Having stated that no apprehension was expressed by the General Officers, or others, in command, of the success of the plan—Were the General Officers ever consulted upon it?

A. I was never present at any consultation with the General Officers with respect to the plan, with the exception of General Gower, whom I have heard speak to the General on the subject of the plan.

Q. Having stated that no apprehension was expressed by any of the officers during the attack—Had not Captain Whittingham reported the total failure of the attack made by Brigadier General Lumley's brigade?

A. Captain Whittingham reported that Brigadier General Lumley's brigade had fallen back on the Tauros, with the exception of the 88th regiment, which had been taken prisoners.

Judge Advocate.—There was a point to which I forgot to examine Captain Whittingham, and which it may save the time of the Court if I examine Lieutenant Colonel Torrens upon, if he is acquainted with the circumstance—I mean as to the report of Captain Whittingham, who is so ill that he cannot attend to-day. General White-

locke will state whether he has any objection to my examining Lieutenant Colonel Torrens to it, instead of Captain Whittingham?

Lieutenant General Whitelocke.—I have not the least objection.

Judge Advocate.—I don't know whether he can state the fact or not.

Lieutenant Colonel Torrens.—Captain Whittingham himself will certainly be here on the next day the Court meets. I cannot, with any precision, give any account of his report; I can give it in general terms, but not with any precision.

Examined by the Court.

Q. Did you write or send, by Lieutenant General Whitelocke's direction, any orders to Colonel Mahon, on the 5th of July?

A. None whatever.

Q. Was any information received of or from Colonel Mahon that morning, previous to the attack, or subsequent to it; or was it known where he was with the troops under his command, during any part of the day of the 5th of July?

A. No information whatever was received of or from Colonel Mahon in the course of the 5th; but it was presumed that he was posted to the eastward of the bridge, in conformity to the orders which had been sent to him the preceding evening.

Q. In the course of the 5th of July, was it ever proposed to the General, or did he himself ever propose to place himself at the head of his reserve, and thus attempt forcibly to penetrate and to place himself in the communication with the divisions of his army; which, in obedience to his orders, had advanced beyond his sight, in the attack of the town of Buenos Ayres.

A. I never heard, in the course of that day, of any such proposition being made, either to or from the Lieutenant General.

Q. Did the General himself ever go forward to observe, in consequence of any reports which you have stated to have been made to him during the 5th of July?

A. He did not go forward to observe in consequence of any such reports, during the different periods that I was at head quarters that day.

Q. Was the impression on the minds of the General Officers about him when you retired to Mr. White's house in the evening of the 5th of July, that the attack of the army had been successful?

A. General Whitelocke expressed great anxiety about the right; the impression of complete success was not in the mind of any person present, as we had heard of the capture of the 88th regiment; but great hopes were entertained that a favourable position had been taken up on the enemy's left flank, in consequence of the colour that we had seen flying on our right.

Q. Do you know whether any attempt was made on the 5th to ascertain if Colonel Mahon received the orders sent to him on the 4th, or to know if he had arrived at the place he was ordered to move to?

A. I do not know of any such attempt having been made in the course of that day. Brigade Major Costley, as I before stated, was ordered to proceed to the right at one time, but I am not acquainted with the precise orders he received.

Q. Do you know whether or not the bridge across the Chieulo was in possession of the enemy during the time the head quarters of the army were at Mr. White's house?

A. I did not know whether the bridge over the Chieulo was in the possession of the enemy; but I supposed he could not remain there, as his retreat would be cut off from the town.

Q. Could it be ascertained whether the colour you allude to was flying from the Convent of St. Domingo or the Residencia?

A. The colours I allude to were certainly supposed to be on the Residencia, as they were close down on the river.

The Witness withdrew.

The Honorable Colonel MAHON called in again.

The Third and Fourth Articles of Charge read.

Examined by the Judge Advocate.

The evidence Colonel Mahon gave on a former day was read.

A paper produced by Colonel Mahon was ordered to be entered upon the minutes as follows:—

NINTH LIGHT DRAGOONS.

Return of Horse Appointments, Accoutrements, &c. cast at Monte Video.

ARMS.	Carbines		
	Bayonets		1
	Pistols		
	Swords.....		1
	Ditto Scabbards		3
BUFFS.	Pouches		4
	Ditto Belts		2
	Waist Belts		1
	Carriages		
	Long		
	Short		
HORSE APPOINTMENTS.	Saddles		60
	Pannels with Pads		17
	Girths		12
	Holsters		
	Long		21
	Short		21
	Holster Straps, Pairs ..		25
	Flounces		43
	Stirrup Leathers, Pairs		5
	Ditto Irons, Ditto		1
	Breast Plates		23
	Baggage Straps		
	Double.....		31
	Single		28
	Cruppers		8
	Cloak Straps, Sets		26
	Bucket and Straps		24
	Carbine Ditto		12
	Surcingles		14
	Cloak Covers		4
	Bitts		11
	Bradoon Ditto		11
	Bitt Reins		11
	Bradoon Ditto		11
	Bitt Headstalls		11
	Bradoon Ditto		11
	Nose Bands.....		11
	Curbs and Hooks		
Horse Collars.	Head Stalls		45
	Chains		18
	Billets		6
Dragoon Appoint-ments.	Cloaks		65
	Boots		14
	Spurs		
	Helmets		17

Guildford Barracks,
14th Feb. 1808.

C. W. ORDE,
Major 9th Light Dragoons.

Q. Where did you receive the order dated the 5th of July, which I have just read in your evidence?

A. At Reduction.

Q. State what you did in consequence of that order?

A. I marched as speedily as I could, and coming to the bridge over the Chieulo, I passed it about five o'clock in the evening of the 5th of July, leaving the rear guard under the command of Major Gwynne of the 45th regiment, on the opposite side of the river from Buenos Ayres.

Q. At what hour did you march from Reduction?

A. I believe about eleven o'clock.

Q. Did you meet with any and what obstacles from the enemy in your march from Reduction to the bridge?

A. None that I recollect, except the badness of the roads, and perhaps a rivulet now and then; none from the enemy.

Q. After this order, which you received at twenty minutes after ten in the morning of the 5th, did you receive any and what orders from General Whitelocke in the course of that day?

A. None.

Q. After the order stating that you were to take post at a safe distance from the bridge, what reason led you to proceed beyond it?

A. On arriving, as I conceived, at a safe distance from the river and the bridge, I sent forward, (with the Assistant Quarter Master General) Captain Stewart to reconnoitre, and finding the bridge was not defended, and that it still remained, I judged it prudent to cross it with the column, leaving the rear guard on the opposite side of the river, of which I acquainted the Commander-in-chief by letter as soon as possible.

Q. Had you any reason to know in the course of the 5th, that the British troops were attacking the town of Buenos Ayres?

A. Yes; I heard the firing commence at half past six in the morning; I could hear it distinctly, the wind blowing fair to me.

Q. Were the troops under your command, which you have stated, including the seamen, to amount to 1800 men, in a situation to have co-operated in that attack, if you had received orders to do so?

A. They were, with the exception of a very few invalids.

Q. In what situation did the corps under your command pass the night of the 5th?

A. That part of the force which was not employed on duty either as picquets or guards, got into cantonments in large and good houses in the village of Barracka, with the exception of the rear guard.

Q. What distance is the village of Barracka from the Miserere?

A. I cannot undertake to state the distance in a straight direction; we were ordered to approach it in a circuitous one.

Q. What is the distance from the bridge?

A. The village is quite close to the bridge.

Q. What orders did you receive from Lieutenant General Whitelocke in the course of the 6th, and what did you do in consequence of those orders?

A. At about eleven o'clock on the 6th Captain Whittingham arrived with a company of the 88th, and brought me orders to march to the house that had been the head quarters of the Com-

mander-in-chief, Mr. White's house, near the Miserere. Captain Whittingham left a Spanish prisoner as guide to shew me a circuitous way to get to Mr. White's house, without approaching too near to the town.

Q. Did you march to the Miserere?—How long did you remain there?—and when did you march to the Plaza del Tauros?

A. I marched to the Miserere, where I did not arrive before sun-set on the 6th. I remained there on the 7th, and until one o'clock on the 8th, when I received orders to march to the head-quarters at Retiro, which place I did not reach before sun-set also. It was to the position the army had taken up between the Retiro and the Recoleta, the head-quarters of the army.

Q. Were the troops under your command consisting of 1600, and 200 seamen, and the artillery attached to them, ever engaged with the enemy during the expedition to Buenos Ayres?

A. The body of the army was not; the flankers and rear-guard had some skirmishing firing in the course of the march.

Q. What distance was your post at the village of Barracka from the Residencia?

A. I do not think it could have been more than a mile and a half.

Q. Had you known the situation of the 45th, could you then have co-operated with them on the night of the 5th?

A. I think I could.

The witness withdrew.

Captain JOHN RANDALL FORSTER called in and sworn.

The Third Article of Charge read.

Examined by the Judge Advocate.

Q. Were you aid-du-camp to Lieutenant General Whitelocke upon the expedition to Buenos Ayres?

A. I was.

Q. Was you with Lieutenant General Whitelocke on the 5th of July?

A. I was, except during the time I was absent in the execution of his orders.

Q. State what orders you received from Lieutenant General Whitelocke during the course of that day; what you did in consequence of those orders; and the length of time during which you was absent from Lieutenant General Whitelocke in the execution of them?

A. The first order I received from Lieutenant General Whitelocke was about nine o'clock in the morning of the 5th; there was some firing on the left; I was directed by the General to see from what it arose; I went to the left, and found it proceeded from our own centinels, who were firing at individuals of the enemy making their escape out of the town. A non-commissioned officer reported to me, that the enemy were collecting in some force further to the left, and rather in our rear. I proceeded to reconnoitre their position; I found them to be about 200 cavalry, but not formed in any regular order; they were at this time about a quarter of a mile distant. I returned to General Whitelocke, and made a report of the

circumstances. I was soon afterwards ordered by General Whitelocke to go into the town of Buenos Ayres, and endeavour to ascertain the situation of the attacking columns; this might be rather before ten o'clock. I went into the centre of the town, and directed myself to where I heard firing; I advanced about a mile, when I met a detachment of the 6th dragoon guards, with a proportion of the 9th light dragoons, retiring down one of the central streets in some confusion. I spoke to the officers of these corps, particularly, I think, to Captain Davenport, of the 6th dragoon guards, and learnt from him, that that corps had been repulsed in an attack upon one of the squares leading to the fort, and had met with great loss.

Q. Did you report the situation of the 6th and 9th light dragoons to Lieutenant General Whitelocke?

A. I did.

Q. Did you report the situation of the 6th?

A. I did—it was some time afterwards. I had previously pointed out to the officers commanding those corps what I considered a defensible position, which they immediately placed their troops in, having a square in their front, which the enemy must have passed to have attacked them; the enemy were at that time at the top of the street, firing occasionally a round of grape and musketry. I must observe it was a very ineffectual fire. I then reconnoitered from the most commanding situations, which were the tops of the highest houses, and observed the British colours flying within a mile distance on the left. I observed likewise the King's colour of a regiment flying on a large building; I cannot exactly speak as to the distance, it might be something more than a mile to the right, with an intermediate position, which I took to be a church, from whence I plainly dis-

tinguished the rifle corps firing with two or three light infantry men, I think on the top of it. There was likewise some very heavy firing of musketry between the last position and the place from whence I reconnoitered. I did not observe any troops whatever; it was merely from the smoke and the reports. Having made these observations, I returned to Lieutenant General Whitelocke, and made a report of what I have just related. This was about half past eleven o'clock; I was soon afterwards ordered a second time to go into the town, to observe whether the positions had at all changed in that time, and the practicability of communicating with them. I returned to the position in which I had before left the 6th dragoon guards with the 9th light dragoons, and found the positions as before stated. I endeavoured to penetrate to the right, by feeling my way with a few men, and likewise to the left, but found it impracticable to communicate with our troops, either to the right or to the left, from the intermediate position of the enemy. I returned to the General, and made my report accordingly. I was repeatedly, several times during the remainder of the day, and until dark, ordered into the town to report to the General any circumstances that might come under my observation. Nothing particular did occur, and I rejoined the General after dark at night, who was by this time at the house which had been established as headquarters, called White's house, on the top of which I was ordered during the night to look out. I did so for the space of between two and three hours.

Q. In the report which you made to Lieutenant General Whitelocke, at half past eleven, did you describe the situation of the high houses, from the top of which you had made those observations?

A. I did; and named to the General that it was the position in which I had left the 6th and 9th dragoons.

Q. State, as accurately as you can, the distance of that house from the Corral?

A. I should suppose it to be within a mile: I may not be exactly correct as to the distance.

Q. Did, or did not, General Whitelocke make any attempt then, or at any other time during the course of the 5th, personally to ascertain the position of the attacking columns?

A. During the time I was with General Whitelocke, he certainly did not.

Q. Have you any reason to know why the Lieutenant General made no such attempt in the course of that day?

A. I do not know.

Q. Do you know of the orders of Captain Whittingham?

A. I do.

Q. With the exception of the orders you received, and the orders given to Captain Whittingham, about two o'clock, to proceed to the Plaza, do you know of any attempt having been made by Lieutenant General Whitelocke, during that day, to communicate with the attacking columns?

A. I do not.

Q. Had you, or had you not, any reason to think, from the observations you made, that a communication might have been opened with one or other of the attacking columns, if a proper force had been sent for that purpose?

A. I had no opportunity decidedly of knowing the force the enemy had in the intermediate posi-

tion; consequently, I don't know that I can decidedly answer the question. The enemy were in great force, as appeared from the number of people I saw at the tops of the houses and in the streets, and in fact from the fire which they kept up, whenever a soldier shewed his head. I endeavoured to penetrate myself, but without success.

Adjourned to to-morrow morning ten o'clock.

TWENTY-SEVENTH DAY.

FRIDAY, MARCH 4, 1808.

Captain FORSTER called in again.*Examined by the Judge Advocate.**The latter part of Captain Forster's evidence read.*

Captain Forster—I beg to observe, that I had an escort with me, when I attempted to go to the left and to the right.

Q. State the force of that escort.

A. No more than six at any time.

Q. Can you judge, from your failure of success, in attempting to penetrate with an escort of six men, whether you might not have succeeded in the same attempt, if you had had 400 or 500?

A. I did not know that there was any failure then, further than the failure of the troops which I had met being repulsed.

Q. The question I put now is, whether you can form a judgment whether you could or could not have proceeded to the left with a great force?

A. I do not think it would have been very practicable to have penetrated to the right or to the left without a great force; it might have been done possibly in the environs, by retiring and skirting the town; but through the town I should have supposed it to be very difficult.

Q. Have you any reason to know, that a communication might have been opened with the right or left at any period of the 5th, by a proper escort?

A. At the time I made my second report to the General, I understood, at head-quarters, that an officer had previously been detached to open a communication with the right, and had failed in the attempt.

Q. Do you mean Major Costley?

A. I do; the brigade major of General Gower: but I cannot speak as to the force which Major Costley had with him.

Q. Supposing Major Costley had had only two or three dragoons, should you have considered that a proper escort for the purpose?

A. I should have considered one dragoon, or myself going singly, as sufficient to have obeyed any order which I received from the General. By what I say, I don't mean to throw any reflection on Major Costley. I cannot judge; there must have been difficulties in either case.

Q. You have stated that you yourself made the attempt to reconnoitre with six men?

A. I did: if you think it necessary I will explain. The situations are very different; he was at head-quarters in the environs of the town, I was one mile in the town. As the enemy were in one position in greater force than they might be in the other, Major Costley could only have communicated by skirting the town. I must have communicated by going through the town.

A Member—There is a difference between an order and opening a communication.

Judge Advocate—I understand the answers allude not to carrying an order, but to an attempt with a few dragoons to open a communication.

A. Certainly, as alluding to myself, but not as to Major Costley.

A Member—It is not understood as throwing any censure on Major Costley: there is a great difference between carrying an order, and opening a communication.

Captain Forster—I beg to state that, in either case, the enemy were skulking round us in every direction, and firing in every direction.

Q. Supposing Major Costley had had only two or three dragoons, should you have considered that a proper escort, with a view to open the communication with any one of the attacking columns?

A. I should not: I myself failed in an attempt to open a communication, and therefore I suppose it might fail in other cases. I do think a few dragoons insufficient to open a communication.

General Whitelocke—How long have you been in the service?

A. Do you mean to include the whole time from my first going into the army? because I once quitted the service.

Q. The whole of the time.

A. Twenty-four years.

Q. Were you not lieutenant colonel of the 24th in Egypt?

A. I was.

Q. And did you not also serve in the active campaign in the West Indies?

A. I served nearly six years in the West Indies, both during the war, and otherwise, in the command of the light company.

Q. What was the object of advancing the 9th light dragoons and carabineers into the town?

A. The 9th light dragoons and carabineers had

been stationed as a reserve, and, I understood, were ordered to advance, in order to preserve the attacking columns: it was some time after the commencement of the attack that they were ordered to advance; I do not know exactly the period. When I say that I understood they were ordered to advance, I should suppose that the object of their advance was to take up a central position. General Whitelocke did not communicate to me what his ideas were, and I must add, that I did not know those corps were advanced, until I met them.

Q. Did I afterwards communicate my ideas to you?

A. Never to me.

Q. Not at any period since?

A. You may have done it in conversation since; but you never at the time named it to me.

Q. After the failure of the 9th light dragoons and carabineers, do you think any force I had at command, in reserve, with reference to the care of the artillery, prisoners, and other objects in the centre, could have forced their way through the centre of the town to Brigadier General Craufurd?

A. It did not require going through exactly the centre of the town: General Craufurd's position was something to the right. The 6th and 9th light dragoons were perfectly efficient in the situation they were; they had before been repulsed, and I do not think they could have penetrated but under circumstances of great difficulty to General Craufurd's position. I beg it to be understood, those two detachments were perfectly efficient at the time I was with them.

Q. Did you go into the town on the 6th or 7th of July, in the execution of any orders?

A. I did, both on the 6th and 7th.

Q. What observations did you make, and report to me, as to the state of the town, the disposition of the people, and the controul General Liniers and his officers appeared to have over them, when you was in the town?

A. A Spanish officer come to the head-quarters about two o'clock in the afternoon of the 7th; I was walking with General Whitelocke in the Plaza del Tauros. A Spanish officer came with a flag of truce, and a representation from General Liniers, that the British force in the town had fired on, and actually shot two officers, complaining of the circumstance as a breach of the truce, which, if persisted in, such was the state of the town, that he could not be answerable for the lives of the British prisoners. I was ordered by Lieutenant General Whitelocke to return with the Spanish officer, taking with me an escort and a flag of truce, with an assurance to General Liniers, that what had happened was unknown at head-quarters, and must have arisen from some mistake. Upon arriving at the great square leading to the fort, I found it occupied by some thousands of the armed rabble; I suppose there might be three or four thousand—full that certainly—who, in the most insulting manner, refused to acknowledge the flag, or allow me to pass; they, at the same time, insulted the escort I had with me, and myself, in every possible manner, both by actually spitting at us, and firing over our heads, with a view to intimidate us, I suppose. We were in this manner retained for nearly half an hour, when two Spanish officers mounted, with some dragoons, came and conducted me to the barrier of the fort, which, on being opened, the rabble forced their way into before me, in fact. I was with some difficulty conducted to the room where General Liniers was, the avenues to which were occupied by the armed rabble, who were at that time calling out for Colonel Pack (Signior

Pack was the expression they made use of.) General Liniers was at this time addressing a number of the rabble, who had forced their way into the room where he was with a number of British officers, who were prisoners, and at that moment had seized one of the most turbulent by the neck, threatening him I should suppose. I delivered to General Liniers the orders I had received from General Whitelocke, which he was apparently explaining to the rabble, who had broke into the room, which in some measure tranquillized them. Colonel Pack was at this time sitting in the room with one or two priests behind his chair; I am positive there was one, if not two, with a view to protect him, at least I should suppose so. They had been dining; the cloth was on the table. I then returned into the court yard, and obtained a Spanish escort in addition to my own, for it became absolutely necessary. On going out of the fort into the great square, I found the violence of the mob had apparently very much increased; they offered the same degree of insult to me, and I was detained by them more than an hour, during which time I expected I should have fallen a sacrifice to their rage. It was not until very great exertions on the part of the Spanish escort that I was permitted to pass through the mob, and it was dark before I returned to head-quarters, when I made this report, I believe, almost nearly in the same words I have now done.

Judge Advocate.—Was the treaty signed at this time?

A. The definitive treaty did not reach the head-quarters, I believe, till about half past eight at night, soon after which Colonel Pack came to the head-quarters escorted. The definitive treaty was not signed.

Q. Had all the terms been agreed upon previously to your going into the town?

A. I really do not know.

Q. How long was it between your return from Buenos Ayres and the signature of the definitive treaty?

A. I cannot speak as to the fact of the definitive treaty being signed: the occurrence which I have now related to you happened from half past two until dark; and I believe the definitive treaty was signed or brought to the British head-quarters that night. I believe so.

Q. You did not make your report till after dark that evening?

A. Nearly dark.

Q. Do I understand your answer to be, that you did not make your report to General Whitelocke till after dark, and that the definitive treaty was signed that evening?

A. It was about dark that I returned, and made my report.

Q. Was the definitive treaty signed that evening, or not?

A. I believe it was; I cannot speak to a certainty; I do not know positively whether it was; I believe it was.

Q. After your return, did any officer come from the town to head-quarters?

A. Colonel Pack came to head-quarters, I believe, about half past eight or nine o'clock.

Q. Having stated that, in the morning of the 5th, you met with a detachment of the 9th light dragoons and the 6th dragoon guards retiring—Do you know what proportion of the 9th light dragoons were engaged in that service?

A. I believe one squadron. After making my first report to Lieutenant General Whitelocke, I returned a second time into the town, and found

the whole of that regiment collected in that position.

Sir John Moore—Did you, when you went into the town in the evening of the 5th, observe that the British colours were taken down from the convent of Saint Domingo; and if so, did you report the circumstance to Lieutenant General Whitelocke?

A. I never saw any colours displayed on the convent of Saint Domingo; the colour which I observed was at Residencia, which was a King's colour of a regiment, and that colour was flying as long as I could see during that day.

General Whitelocke—Your former answer was, that you saw our men on the top of the centre building.

A. I did so; I saw riflemen acting from the steeple, with two or three light infantry men on the top of it.

Q. Did you see them in the evening?

A. I did not see them after three o'clock; there was a particular haze came upon the town, from the river I think, which was very thick. About three o'clock I saw them; there was a very thick haze came over the town.

A. At that time did you see the flag on the Residencia?

A. Soon after that I saw the flag on the Residencia; it might possibly be between three and four that I did observe any men upon the centre building.

Examined by the Court.

Q. Do you know if the cannon fired upon the dismounted dragoons from the fort?

A. There were no cannon shot from the fort upon the dismounted dragoons during the time I

was with them; the enemy appeared to have brought a field-piece to the top of the street, from which they fired. I mean to observe, that it was an occasional fire, and a very ineffectual one.

Q. Are you, or are you not, of opinion, that Lieutenant General Whitelocke had the means in his power of opening a communication with Brigadier General Craufurd in the course of the 5th, if he had applied them to that purpose? You are not to confine your answer to any attempt made through the town, but to an attempt made in any other manner.

A. I am not aware that General Whitelocke knew General Craufurd's situation or his position.

Q. The question is whether the communication could be opened?

A. With General Whitelocke's force collected, it could only have been made with great difficulty and hazard.

Q. Was it, or was it not, possible for General Whitelocke to have communicated with General Craufurd?

A. I think it possible for him to have fought his way there with his whole force collected that were in the reserve, but it must have been done under great difficulty. It is quite a matter of opinion, and I beg to submit it to the Court.

Q. I ask merely yes or no.

A. A very large force, determined to penetrate to one point, might have done so, but with very great loss and difficulty.

Q. When you reported and described the house from whence you had a view of the town, did Lieutenant General Whitelocke express any inclination to go to that place?

A. I beg to observe, that my reconnoissance and my report was not confined to one house, but to

many. Upon my making my report to Lieutenant General Whitelocke, he did not express any inclination to go there.

Q. Had you any means of knowing whether the enemy were in any force between head-quarters and the Residencia, in the skirts of the town?

A. I had no means of knowing the force the enemy had, further than by the continued straggling fire that was kept up in that direction during the whole of that morning.

Q. How then can you tell that the co-operation with Brigadier General Craufurd would have been difficult, by marching along the skirts of the town to the Residencia?

A. They must, in some cases, have passed through the town; they could not have gone to General Craufurd without passing through some part of the town, and the enemy appeared to be perfectly prepared by being on the tops of the houses.

Q. Several questions that I have asked you, as well as some of those put by the Court, have been misunderstood. The object of those which I asked Captain Forster have been, not whether a direct co-operation might have been made with Brigadier General Craufurd, but whether, in any way, a co-operation might have been made?

A. I have answered, that I thought it might have been done, with difficulty, to the right round the skirts of the town.

Sir John Moore—Captain Forster has stated, that with the whole reserve of General Whitelocke, a communication might have been opened with the centre streets of the town, but with difficulty. This is a question in explanation. If Captain Forster does not know what the force was in the skirts of the town, except by judging by the straggling fire kept up, how can he form his

judgment that it would have required the whole force which remained with General Whitelocke, and that then it would have been attended with difficulty?

A. I have no hesitation in saying that the enemy appeared so prepared at all points, by being at the tops of the houses, and in other respects, that without great difficulty they could not have got to the Residencia. The tops of the houses on the right and left were covered with people, and the skirts of the town were surrounded with hedges, where the enemy could not be seen. The enemy were seen in numbers on the tops of the houses approximating to the Residencia.

Sir John Moore.—It appears by the explanation Captain Forster has given, that he did not know what force the enemy had between the head-quarters and the Residencia—If he did not know that, he cannot say whether a single man or a thousand were sufficient to force the communication.

Captain Forster.—I give it as a matter of opinion.

Sir John Moore.—If the inclosures prevented him from seeing the enemy, it is impossible for him to say of what numbers the enemy consisted. His imagination may paint 10,000, or not one; if he sees a hedge, unless he goes up to that hedge, he cannot say whether there are men behind it or not.

A Member.—He has declared that he saw a great number upon the houses near the Residencia.

Captain Forster.—I speak to what I saw.

Q. Did you, or any other aid-de-camp to your knowledge, receive an order to penetrate at all risk to Brigadier General Craufurd, or any of the corps engaged on the right?

A. I did not myself. I wish to explain, that it was only six years I served in the West Indies, being badly wounded.

The witness withdrew.

Captain WHITTINGHAM called in again.

The Third Charge read.

Judge Advocate—If Captain Whittingham had not been prevented by illness from attending here yesterday, I should have expected a detailed account of the reconnoissance to the left; but Lieutenant Colonel Torrens having stated a great deal of what he knew, it will save a great deal of the time of the Court if I read Lieutenant Colonel Torrens' evidence respecting it, desiring Captain Whittingham to make any corrections, or add any particulars which were omitted by him, who stated at the time that Captain Whittingham could give a more detailed account than he could. These are the questions put to Colonel Torrens.

[Here the Judge Advocate read the evidence of Colonel Torrens, *commencing with the words*, "When Captain Whittingham received his orders from Lieutenant General Whitelocke" *to the words* "General Craufurd."]

That is all that applies to the reconnoissance. If there are any circumstances which Lieutenant Colonel Torrens has omitted in the evidence I have now read you will supply them.

A. There is no material difference; there is a little difference in the time. Having heard Lieutenant Colonel Torrens' evidence of my reconnoissance to the Corral, I have nothing to add to it but in respect to the time. I marched from the Miserere at half past two, and I arrived at the

Plaza del Tauros at four o'clock, and I returned to General Whitelocke at half past four.

Q. How long were you on your return?

A. Half an hour.

Q. Had you any, and what communication with Lieutenant General Whitelocke upon your return, upon the subject of his going to the Plaza del Tauros that evening?

A. I communicated to General Whitelocke Sir Samuel Achmuty's desire that he should go to the Plaza del Tauros; but I had no further conversation with General Whitelocke upon the subject.

Q. Did you give any opinion of your own to General Whitelocke as to its being practicable or safe?

A. I did not; as I returned with the dragoons alone, I thought there was no question about that.

Q. State the orders you received to open a communication with the right flank, and what you did in consequence of those orders; the strength of the escort you took with you; the time it took you to perform that service; and the difficulties of any kind that you met with in performing it.

A. On the morning of the 6th, about half past six, I marched with ten dragoons and thirty infantry from Mr. White's house: my orders were to find out Colonel Mahon, and direct him to advance without loss of time to the Miserere. I was then to proceed to the Residencia, and afterwards to whatever position General Craufurd might occupy. A little before eleven, I fell in with Colonel Mahon's out-post, and was conducted to his headquarters near the bridge. I communicated to Colonel Mahon Lieutenant General Whitelocke's orders, and having left the thirty infantry who accompanied me with Colonel Mahon, I received a hundred men of the 40th. About one o'clock I came to the Residencia, where I found seven com-

panies of the 45th under the command of Majors Tolley and Nicholls, and there learnt, that on the morning of the 5th, about nine o'clock, an English flag had been seen flying in a northerly direction at the distance of about 800 yards; that Colonel Guard had advanced in that direction with the grenadiers of the 45th, and had not returned; that the flag had been struck between three and four o'clock in the evening of the same day. While I was at the Residencia, the enemy attempted to bring cannon against the Convent; Major Nicholls charged them, and took two howitzers. Majors Tolley and Nicholls having given it as their opinion, that all circumstances considered, it would be in vain for me to attempt to penetrate in search of Brigadier General Craufurd, at four o'clock I began my retreat; at half past six I arrived at the Miserere, which position I then found, was occupied by Colonel Mahon's brigade, I reported to Colonel Mahon the strength of the Residencia, and the very able manner in which that position had been occupied by Majors Tolley and Nicholls; the provisions they had met with in the Convent and the adjacent houses; the ease with which a communication might be opened with the navy; the two guns and the two howitzers they had taken; the want they had expressed of an artillery officer; and the advantage they would derive from a reinforcement; Colonel Mahon immediately determined that a reinforcement of 300 men, together with an artillery officer, should be sent to them next morning by day-light.

Q. Did you, or did you not, offer Majors Tolley and Nicholls to leave the 100 men of the 40th, at the Residencia, and to attempt your return with the ten dragoons, the only remaining part of your escort?

A. I did.

A. At the time you made this reconnoissance,

had all offensive operations against the town from the attacking columns ceased?

A. I cannot positively answer the question. I left the Miserere at day-light, and could not possibly know what was going on in the left or the centre?

Q. Describe to the Court what obstacles from the enemy or otherwise, you met with in performing this service; also the distance from Mr. White's house to the bridge; from the bridge to the Residencia; and from the Residencia to the head quarters?

A. I met with no obstacles of much consequence; generally the houses were occupied by armed men, and on the road with some loose parties of cavalry; but no obstacles worth speaking of. I employed the infantry as flankers, and the dragoons were quite sufficient to clear the roads. From Mr. White's house to the bridge is five or six miles; from the bridge to the Residencia rather more than two miles; and from the Residencia to Mr. White's house about four miles.

Q. From the observations you made in performing this service, is it, or is it not, your opinion that a communication might have been opened with the Residencia from the head quarters on the 5th?

A. I think it might have been opened, because at the time I went the enemy's force was more disposable, from the surrender of the light brigade.

Q. Did Lieutenant General Whitelocke make any, and what attempt, personally or otherwise, to co-operate with and support the different columns of the army engaged in the attack on the 5th of July, with the exception of the two orders to which your evidence has applied?

A. I understood that Major Costley had been ordered to the right.

Q. Was that the only attempt that you know of?

A. It was the only attempt that I know of. Perhaps I am not wrong in stating that Captain Forster went down the centre after the retreat of the carabineers. I did not know when he was sent, but he told me he had been, when I came back.

Q. If Major Costley had been sent to the right with two or three dragoons, should you have considered that a proper escort for the purpose of opening a communication with the right?

A. I should not; it was impossible for the dragoons to act in that enclosed country, without either infantry or dismounted cavalry to act as flankers.

Examined by Lieutenant General Whitelocke.

Q. When did you receive your orders to go to the right flank, and had you any communication with me on the night of the 5th of July, upon those orders?

A. I received my orders on the evening of the 5th; between twelve and one o'clock at night General Whitelocke came to me, and desired I would particularly make myself master of the bearings and distances of the route I was to take the next day. He also desired that I would send for an intelligent person who was then in the house, and question him particularly on the subject.

Q. What reason did Major Nicholls assign for not permitting you to leave your 100 men, after expressing to you his wish to have a reinforcement?

A. Major Nicholls felt so much confidence in his position, that he was not particularly anxious about a reinforcement; and he said he thought it of more consequence to insure my return to head quarters with my report.

Examined by the Court.

Q. Did you return to the Residencia by a different road from that by which you marched to the bridge?

A. I did; night was coming on, and my party was much stronger when I came down; therefore I came home a shorter road nearer the town.

Q. When General Whitelocke desired you to make yourself acquainted with the bearings and distances of the route you were to take on the 6th, did he communicate any information upon the subject himself?

A. The person that was sent for was perfectly master of the country; he was examined in the presence of General Whitelocke, and General Whitelocke asked him several questions himself.

Q. Did you know of any greater difficulty in proceeding to the right flank, than you met with on going to the left on the 5th?

A. There were more mounted men on the right, but the opposition which they afforded was nothing worth mentioning.

The witness withdrew.

Lieutenant Colonel BOURKE called in.

The Third and Fourth Articles of Charge read.

Examined by the Judge Advocate.

Q. Were you with Lieutenant General Whitelocke during the 5th of July?

A. I was.

Q. Will you state to the Court any military circumstances connected with the charges exhibited against Lieutenant General Whitelocke, which occurred from the morning of the 5th, to the final embarkation of the troops. This enquiry, you will

observe, goes to the military operations of the troops, to the personal exertions of the Commander-in-chief, in aid and support of those corps, who in pursuance of his orders, penetrated into the town of Buenos Ayres and engaged the enemy on the 5th, and likewise the disposition and movement of the troops who remained unemployed during that day?

A. Soon after the signal guns had fired upon the morning of the 5th, I stated to the Commander of the forces, that the different columns had all marched off, and that the carabineers and 9th light dragoons, were stationed in the two streets allotted to them in general orders; and I stated, soon after that I perceived the gun-boats, as I supposed, moving up to cover the 38th regiment. About ten o'clock in the day, I saw the carabineers and the light dragoons returning from the unsuccessful attack they had made in the centre street; they were halted about 500 yards in front of the ground from which they had originally started, and I believe the whole number stationed at that place were about 600; and there were 150 more of the 9th light dragoons stationed at the Corral de Miserere, where the Commander of the forces himself was. About half past two o'clock, I was present when the Commander of the forces sent Captain Whittingham to the left. I do not recollect any other circumstances occurring, on that day, which I could give in answer to this question; I think about one or two o'clock in the morning of the 6th, the General desired me to write some orders which he dictated; and which were given to Captain Whittingham, who was sent off at day-break on that morning. About ten o'clock the same day, the General moved to the Plaza del Tauros with a small escort of dismounted dragoons, and I think with two six-pounders and some few cavalry. Nothing particular occurred upon that march. I understood from some conversation I had with

the General before we marched, that his intention was to keep his left upon the Plaza del Tauros, and to close all his remaining forces towards that point. I do not remember any particular military occurrence at the Plaza del Tauros, during the four days that I remained there. I sailed for England on the 20th of July. I should, perhaps, have observed, that on the morning of the 8th of July, I settled the line of demarkation of the advanced posts of the two armies, with a staff officer, sent out by the Spaniards for that purpose.

Q. Do you know of any personal exertion, during the 5th, made by Lieutenant General Whitelocke, or of any other attempts than those you have described, to co-operate with and support the different columns of his army, which had by his orders entered the town of Buenos Ayres, on that day?

A. I do not know of any exertion made by General Whitelocke in his own person; I believe he sent General Gower's Brigade Major with a message to the right, and I perceived that he sent Captain Forster frequently into the town of Buenos Ayres; but I was not present when he gave them their orders.

Q. Do you know why Lieutenant General Whitelocke used no personal exertions, or made any other attempts than those you have described, for the purposes mentioned in the last question?

A. I do not.

Q. If proper means had been adopted for uniting the forces under Colonel Mahon to those near head-quarters, on the 4th, or early on the morning of the 5th, would it not have been in the power of Lieutenant General Whitelocke, at the head of those troops, to have forced his way at any time during the 5th, into the town, and have joined any other British corps at that time engaged with the enemy; or would it not have been in his power,

on the morning of the 6th, at the head of those troops, to have forced his way to the Residencia ; and would not such or similar personal exertions on his part, have afforded the best prospect of restoring the fortunes of the day ?

A. I believe, if proper means had been adopted, there would have been no great difficulty in uniting the corps under Colonel Mahon, with that near head-quarters, on the 4th, or early on the morning of the 5th. What effect an attack from that force might have had, is more than I can presume to say, never having seen the defences of the enemy. I believe there would have been no difficulty in the morning of the 6th, with even a much smaller force, to have communicated with the Residencia. I find great difficulty in answering the latter part of the question, because I really do not understand it. I have stated it would have been possible to have gone to the Residencia on the 6th, but I cannot state the effect it might have had, as I have stated I never saw the defences of the enemy. I do not know what opposition it might have experienced.

Q. Would not the bringing Colonel Mahon's corps into such a position, that they could have co-operated with one or other of the attacking columns, have afforded better prospect of success to the attack ?

A. Certainly it would.

Q. Were you ever consulted upon the treaty ?

A. I was shewn the first letter sent by General Gower, on the morning of the 6th of July. The commander of the forces asked my opinion of it, in the presence of General Gower ; I told him I thought he ought to refuse the summons, and to close in the remainder of the force to the left. General Gower observed, that he was of the same opinion ; and that an answer to that effect was going to be sent off, which answer, with some trifling alterations, was afterwards sent, and I was no fur-

ther consulted by General Whitelocke upon the subject of the treaty.

Q. Did you give any opinion to General Whitelocke upon that subject?

A. Nothing further than what I have stated, until subsequent to its signature.

General Whitelocke.—Were there not mounted troops of the enemy in our rear, and on our flanks, the whole of the 5th of July?

A. There were in considerable numbers.

Q. What force had I at the Corral with the artillery, on the 5th, for the protection of the guns, prisoners taken on the 2d, and the sick and wounded?

A. Exclusively of the 600, which I have already stated to have been in the centre streets, there were about 350, in which I include 83 dismounted dragoons, attached to the Commissary General.

Q. How were the men, attached to the Commissary General, armed?

A. I think with short carbines only.

Q. Did you, either on the 4th or 5th of July, hear from any of the Generals, or other officers, any doubt expressed as to the success of the attack, or any apprehension of its failure—And what was the opinion as to Brigadier General Craufurd's brigade, towards the close of the attack?

A. I never heard any doubts, whatever, expressed, as to the success of the attack; and I remember, a little before sun-set in the evening of the 5th of July, expressing some anxiety to a General Officer, as to the fate of General Craufurd's brigade: he told me he had a great deal of dependance upon the skill of General Craufurd, and that he hoped we should soon hear of his being well posted.

Q. Did you particularly examine the ground we

occupied at the Tauros; and state what command it had over the city of Buenos Ayres?

A. I examined that ground very carefully: the Plaza is situated upon one side of a little ravine; a great part of the town of Buenos Ayres was upon the other. The side of the Plaza was the steepest of the two; and from that circumstance it commanded to the distance of about 500 or 600 yards upon the opposite side; but at the distance of 800 yards it had no advantage whatever.

Q. From your knowledge of the nature of the ground in the environs of Buenos Ayres, could you have so occupied the environs of Buenos Ayres, as to cut off supplies from the town, even with the whole force, before the 5th of July?

A. I should conceive, from the great extent which it would have been necessary to guard, probably not less than five miles, from there being at least thirty roads within that distance, leading from the country into the town; from the garrison of the town being, at the smallest computation, more than double the number of the assailants; and from the circumstance of the enemy having a large body of irregular cavalry constantly harrassing the rear, that such a blockade could hardly have been successful. It is also necessary to state, that at the season, when we appeared before Buenos Ayres, all the towns in that province are generally filled with grain, it being the custom to bring it in from the country before the setting in of the rains, and the breaking up of the roads. We had likewise been informed, before we left Monte Video, that the enemy had established magazines of provisions in the town.

The first question which General Whitelocke put to Lieutenant Colonel Bourke, and the answer read.

Judge Advocate.—Were the mounted troops your

referred to in that answer, of the same description with the 300, which Colonel Tolley and Captain Whittingham dispersed and pursued for between two and three hours on the morning of the 5th, having with him 16 mounted dragoons and 30 infantry?

A. I believe they were all of the same description.

Q. Is it, or is it not, your opinion that it would have been practicable to have battered and bombarded the town of Buenos Ayres with effect, by a combined attack by sea and land, on or after the 5th?

A. I believe it would have been possible to have destroyed a number of the houses, but not to have the town on fire.

Examined by the Court.

Q. Was you near Lieutenant General Whitelocke on the 5th of July; and were you acquainted with the orders for the attack of Buenos Ayres on that day?

A. I was near General Whitelocke the whole of the day, though for a very short time in conversation with him. I was acquainted with the orders.

Q. Did the orders direct different corps to penetrate near to the river, and to occupy the nearest buildings, and wait further orders?

A. The orders did not express that they were to wait there for further orders, but it must have been so understood.

Q. Did you soon perceive that the communication between Lieutenant General Whitelocke and those corps, was intercepted by parties of the enemy?

A. In less than half an hour after the troops marched off.

Q. Did it strike you as important, during any

any part of that day, for the General, with his staff, to put himself, at all risks, in contact with his army, that he might know the effect of the attacks he had ordered, and combine its further efforts?

A. As early as eight o'clock in the morning, when I found the fire continued very heavy in the town, and that he had received no intelligence from the Brigadier Generals commanding, I thought there was a necessity for communicating with him, and that necessity increased as the day advanced; and if it could have been obtained in no other way than by the General's placing himself at the head of his troops, in my opinion it ought to have been attempted.

Q. Do you know whether such necessity ever struck the Lieutenant General, or that it was ever pointed out to him?

A. I cannot say whether it ever struck him, or not; it was not pointed out to him in my presence.

Q. As you were near the person of Lieutenant General Whitelocke, can you state that you have no opinion of the cause which induced the Lieutenant General to remain stationary in the rear, separated from his army, instead of forcing his way to join it, to direct its operations and share its fate?

A. Although I was never far from the General during that day, for any considerable length of time, yet I had so little conversation or communication with him, that I cannot attempt to assign the grounds for his conduct.

Adjourned to to-morrow morning ten o'clock.

TWENTY-EIGHTH DAY.

SATURDAY, MARCH 5, 1808.

In consequence of the receipt of a letter from the JUDGE ADVOCATE, stating his being unable to attend, from indisposition, the President adjourned the Court to Monday morning, Ten o'clock.

TWENTY-NINTH DAY.

MONDAY, MARCH 7, 1808.

Lieutenant Colonel BOURKE called in again.

Judge Advocate—The Court will recollect, that Lieutenant Colonel Bourke is now under examination by the Court. He has just stated to me, that there is one of his previous answers he wishes to amend. The question to which the answer refers is this—"If proper means had been adopted for uniting the forces under Colonel Mahon, &c." *ending* "the dampness of the day." The answer is, I believe—"If proper means had been adopted," *ending*, "what opposition it might have experienced." Colonel Bourke informs me, he wishes to amend that answer.

A. I conceived, when that question was put, that its object was to ascertain whether, if Colonel Mahon's corps had been joined to the force nearer head-quarters, it would have been possible for General Whitelocke to have forced his way into the centre of the town, and I answered it accordingly. If, however, it was intended to enquire whether, by means of that force, a communication could have been opened, I have further to state in reply, that it is my opinion that, by means of that force during any time on the day of the 5th, a communication might have been opened with any British troops engaged in the town, and that it is my opinion, that such communication

and further co-operation of that force would have afforded the best prospect of ultimate success.

General Norton—Had Lieutenant General Whitelocke, when at White's house, concentrated the whole of his force, might he not have occupied the roads between the Chieulo and the Recoleta, or have broken them up, so as to have prevented any supply of provisions being brought into Buenos Ayres in that direction?

A. I believe that the distance between the nearest part of the Rio Chieulo and the Recoleta convent was at least seven miles; and I do not conceive that, with his whole force of 7500 men, it would have been possible to have closely guarded such an extent; nor do I think that it would have been possible to have broken up the roads, so as to have completely prevented the introduction of supplies into the town.

Judge Advocate—Upon that amended answer of Lieutenant Colonel Bourke, if General Whitelocke has any question to put, in reply, I conceive he has a right.

General Whitelocke.—I have no question to put on that amended answer, but there is one I omitted to put on the last examination. I request the Court will indulge me with an opportunity of putting it now.

Judge Advocate.—I presume there can be no objection.

General Whitelocke—Is there any commanding situation on the Corral side of the town, from which Buenos Ayres or the march of the columns could have been seen?

A. There is not.

The witness withdrew.

Lieutenant Colonel BRADFORD called in again.

The Third and Fourth Charges were read.

Examined by the Judge Advocate.

Q. Were you with Lieutenant General Whitelocke during the 5th of July?

A. I was.

Judge Advocate—I am now going to repeat to the Adjutant General precisely the same question I put to the Quarter Master General on Friday.—Will you state to the Court any military circumstance, connected with the charges exhibited against Lieutenant General Whitelocke, which occurred from the morning of the 5th to the final embarkation of the troops. This enquiry, you will observe, goes to the military operations of the troops, to the personal exertions of the commander-in-chief in aid or in support of those corps who, in pursuance of the orders they had received, penetrated into the town of Buenos Ayres, and engaged the enemy on the 5th; and likewise to the disposition and movement of the troops who remained unemployed during that day.

A. On the morning of the 5th, I accompanied General Whitelocke to the Corralis; the troops entered the town agreeably to orders immediately on the commencement of the cannonade, at half past six o'clock. At the commencement of the cannonade, I was directed by General Whitelocke to go to the right; to see whether the troops required any assistance in pointing them to the roads leading to the different streets. The two regiments on the right were the 45th and 6th dragoon guards. The 45th had quitted their ground, and advanced towards the town. The 6th dragoon guards having mistaken their way, I

pointed out to them the direction they ought to take, after which I returned to General Whitelocke, and made my report. About nine o'clock, General Whitelocke being anxious to know what was passing in advance, I proceeded from the Corralis by the street leading to the north-west angle of the square. When I had advanced some distance in the street, I found the 6th dragoon guards, and a detachment of the 9th light dragoons, with one 6-pounder; the enemy at this time were firing some musketry from the houses, and some grape from a battery in advance, but ill-directed. Several houses had been broken open by the soldiers. I went to the top of a house near this post, from whence I discovered some of our own riflemen upon a building considerably to the right, and at some distance in front. The morning being hazy, and a great mass of buildings in front, allowed me but a very imperfect view. I returned to General Whitelocke, and made my report: he directed me to order the 6th dragoon guards and 9th light dragoons, to advance. I reported to him, that the street was so bad, that the gun would not be able to keep up with the column. He desired, therefore, that the gun might be left under a proper escort, and the column might be directed to advance without it. I returned, and gave orders accordingly, directing that Colonel Kington should, if he suffered by any interior defences, lodge himself as far in front as possible, agreeably to the orders issued for the guidance of the columns which entered the town. General Whitelocke, I understand, sent Captain Whittingham, and Major Costley, which perhaps the Court may have heard, to communicate with the army.

Judge Advocate—You will state whatever comes within your own knowledge.

A. Major Costley was sent to the right.

A Member—You heard the orders given?

A. No; nor did I hear the orders given to Captain Whittingham, but I know that they went; those are the orders I received from General Whitelocke, and the only orders I know of his having given.

A Member—During that day?

A. Yes, during that day; except that a detachment of artillery were sent to the Plaza del Tauros on the evening of the 5th; and General Whitelocke, when he sent to head-quarters at sun-set, directed me to take charge of the post in the centre of the army. Do you wish me to enter into what passed on the 6th?

Judge Advocate—The question applies to every thing which came within your knowledge till the embarkation of the troops.

A. When General Whitelocke quitted the Corralis, about twelve o'clock on the 6th, he directed me to maintain that post as long as necessary, to await a junction with the force from the right (Colonel Mahon's division). About six o'clock, Colonel Mahon's division arrived at the Corralis, and, in consequence of the report brought by Captain Whittingham from the Residencia, a reinforcement of 100 men, and an artillery officer, were directed to be held in readiness to move at day-light the next morning for that post (the Residencia). The following morning, just as this detachment was about to march, a letter was received from the Plaza del Tauros to cease hostilities, and no further movement of troops to take place. On the 7th, about one o'clock, I rejoined General Whitelocke at the Plaza del Tauros. I do not recollect any other circumstance which occurred, which it is material to state to the Court.

Q. Do you know of any personal exertion made

by Lieutenant General Whitelocke on the 5th, or of any other attempts on his part, to co-operate with and support the different columns of his army, who had, by his orders, entered the town of Buenos Ayres on that day?

A. I do not.

Q. Do you know why General Whitelocke made no personal exertion, or any other attempts than those you have described, for the purposes mentioned in the last question?

A. I do not know of any reason, except his confidence in the troops in advance being able to effect the purpose for which they were designed. I merely conjecture that that might be the reason. I do not know that that was General Whitelocke's reason.

Judge Advocate—If the witness, by conjecture, means that that is his opinion, undoubtedly it is an answer to the question. If the conjecture is merely a vague supposition of his own, and he does not mean to state it as an opinion of his, I then conceive it is no answer at all, and ought not to appear upon the minutes. Will you explain whether that is an opinion or a supposition?

A. It is merely a supposition.

Judge Advocate.—Then, I think, it ought not to be entered, unless Colonel Bradford means to state that upon that supposition he formed his opinion.

A. I cannot possibly say.

The question was read over again to Lieutenant Colonel Bradford.

A. I do not know of any reason.

Q. Was it not clearly and generally understood, when the different columns marched on the morning of the 5th, that, after they had gained the

several points pointed out to them in the orders under which they marched, they were to wait for further orders for their subsequent operations?

A. The orders of the 4th, for the attack, were not given out by me to the different commanding officers of regiments.

General Harris—You know those orders: the question goes to whether it was clearly understood.

A. I do not know. The orders were given out, not by me on the 4th, but by General Gower: consequently, I did not hear the whole of the directions that were given.

Q. If proper means had been adopted for uniting the forces under Colonel Mahon to those near head-quarters on the 4th, or early on the morning of the 5th, would it not have been in the power of Lieutenant General Whitelocke, at the head of those troops, to have forced his way at any time, during the 5th, into the town, and to have joined any other British columns at that time engaged with the enemy?—Or, would it not have been in his power, on the morning of the 6th, at the head of those troops, to have forced his way to the Residencia?—And would not such, or similar personal exertions on his part, have afforded the best prospect of restoring the fortunes of the day?

A. I think it would.

Q. Were you ever consulted upon the treaty.

A. I was absent at the time. I was at the Corralis.

Q. What number of prisoners were taken at the Corral?

A. About 200.

General Loftus—At what time do you mean?

A. Principally on the 2d, and stragglers at our outposts between that time and the attack.

Q. Have you the returns of the effective strength of the army after the 5th?

A. Yes, I have.

Q. Be so good as to read them.

A. The effective strength after the attack, 5441 rank and file, present and fit for duty.

The return was ordered to be entered on the minutes.

Return of the Effective Force after the attack of the city of Buenos Ayres, on the 5th of July, 1807.

REGIMENTS.	Lieut.-Colonels	Majors	Captains	Subalterns	Staff	Quarter Masters	Serjeants	Drummers	Rank and file	Remarks.
Royal Navy			2	14	1				200	
Royal Artillery ..			4	4	1		6	4	292	
Gunner Drivers..							1		112	
6th Drag. Guards			2	8	1	4	15	4	247	
9th Light Drag.		2	6	10	3	5	28	5	534	
17th Ditto	1	1	5	16	4	7	34	8	565	
5th Regiment....	1	2	7	22	5		33	12	661	
36th Ditto	1	1	4	19	4		38	12	608	
38th Ditto		1	4	6	2		18	7	481	
40th Ditto		1	7	10	3		44	18	740	
45th Ditto		2	5	13	6		21	15	505	
47th Ditto			1	2			4	2	59	
87th Ditto	1			7	3		35	13	442	
Total	4	10	47	131	33	16	277	100	5441	

One company of the 88th at the Hospital, and 2 Subalterns, 3 Serjeants, and 56 Rank and File of ditto, with Colonel Mahon, not included.

J. BRADFORD,
Late Deputy Adjutant-General.

Return of Prisoners taken by the Enemy on the
5th July, 1807.

REGIMENTS.	Lieut.-Colonels	Majors	Captains	Subalterns	Staff	Quarter Master	Serjeants	Drummers	Rank and File	Remarks.
Royal Artillery ..			1				1		18	Including wounded.
6th Drag. Guards		1							1	Ditto
Rifle Corps.....		2	5	19	3		24	12	495	Ditto
Light Battalion ..	2		8	18	3		37	12	729	Ditto
88th Regiment ..	1	2	8	23	4		34	19	360	Ditto
45th Grenadiers ..	1		1	2	2		3		73	Ditto
Total	4	5	23	62	12		99	43	1676	

Brigadier General CRAUFURD.

Prisoners taken from the Enemy.

At the Plaza del Tauros	700
At Miserere	200
At Residencia about	100
	1000

Q. Can you state the effective force of the reserve at the Corral on the 5th, distinguishing them by regiments?

A. The force at the Corral, and the different posts connected with the Corral, amounted to about 1050 rank and file; that was the number, and I apprehend that was the effective strength; for I do not recollect any sick being reported after deducting the casualties occasioned by the attack of the carabineers and the 9th light dragoons that morning.

Q. What was the force before those casualties occurred?

A. About 1100. This force was disposed of as follows: Advanced towards the town, 600 rank and file; at the Corral 180, including 30 mounted dragoons; with the commissariate, 83 of the 17th dragoons dismounted, armed with small carbines; at the hospital, a company of the 88th, consisting of 60 rank and file; and detachments of different regiments left with packs, amounting to about 180 rank and file.

Q. What was the total number of prisoners given up at the treaty?

A. The total number of men that were taken prisoners, including 225 wounded, amounted to 1676.

Q. The number of Spanish prisoners I mean?

A. The number that were taken were about 1000, including the 200 taken at the Corral. As the treaty specified that the whole number that were taken should be given up, I suppose they were.

Q. How soon after the different columns of the army marched into the town by Lieutenant General Whitelocke's orders, did you perceive that all communication was intercepted between them and the Commander-in-chief, by parties of the enemy?

A. I do not know that the communication was at all intercepted by parties of the enemy, except in the town, not in the suburbs of the town. Do you mean the troops who marched into the town with General Craufurd?

Judge Advocate.—I refer to all the troops which marched into the town?

A. In every street the columns passed through there were parties of the enemy in every house, firing musketry upon them; therefore I apprehend the enemy still remained in the streets, and that there was that difficulty to encounter in communicating with them.

Judge Advocate.—The question is, how soon after the march commenced did you perceive that all communication was cut off?

A. I do not recollect knowing that the communication was cut off at all; a sufficient body of troops would, I apprehend, have forced a communication at any time. I apprehend at the same time, it would have been very imprudent to have attempted it by the centre streets, after the result of the attack of the 6th dragoon guards and the 9th light dragoons, the troops being exposed to a very destructive fire from the enemy, in attempting to proceed into the town. I apprehend it was possible to communicate by the means of the Residencia, and by that post with the troops at the St. Domingo church.

Q. Did it, or did it not, appear to you to be important at any, and what time of that day, for the General and his staff to put himself, at all risks, in contact with his army, that he might know the effect of the attack which he had ordered, and combine their further efforts.

A. I think that, allowing to eleven or twelve o'clock to receive reports from the town, in my opinion it would have been adviseable to have done so?

Q. Do you, or do you not know, whether such necessity ever struck Lieutenant General Whitelocke, or whether it was ever pointed out to him?

A. I do not know.

Q. As you were near the person of Lieutenant General Whitelocke, can you state whether you have any opinion of the cause which induced him to remain stationary in the rear, separated from his army, instead of forcing his way to join it, to direct its operations and share its fate?

A. It is impossible for me to say by what motives he was actuated.

Judge Advocate.—Lieutenant Colonel Bradford

will understand it is a question of opinion—I call upon him for that opinion, if he has formed any?

A. I have formed none.

Examined by the Court.

Lord Cathcart.—Did the 6th dragoon guards, and the 9th light dragoons, act as infantry from the period of their disembarkation at Ensanada de Barragon, till the treaty was signed?

A. Yes, they did.

Q. Describe their arms?

A. They were armed with the old carbines.

Q. Was any, and what, endeavour used by Lieutenant General Whitelocke to supply them with muskets and musket ammunition during that period, or previously, at Monte Video?

A. Until the arrival of General Craufurd we had no spare arms. I do not know of any exertion being used to provide them: there were none to be had at Monte Video till the arrival of General Craufurd. On recollection, I believe the 9th dragoons had muskets, and that it was only the carbineers who had old carbines.

Q. Did you, as Adjutant General, know where Colonel Mahon, with his corps, was on the morning of the 5th of July?

A. I did not send the order to Colonel Mahon; but I understood, on the evening of the 4th, that an order had been sent to him to march from Reduction to the bridge. I could not positively say whether he had received that order. No acknowledgment of the receipt of the order was received at head-quarters. I did not know that he had received that order till his arrival in the evening of the 6th.

General Loftus.—When General Whitelocke left the Corral to proceed to the Plaza del Tauros,

did the enemy appear in any force about the Corral?

A. I do not recollect seeing the enemy at all, at that time, about the Corral. Three or 400 straggling horsemen made an attack upon our posts in the rear that day, but that was not till after General Whitelocke's departure for the Plaza del Tauros.

Q. Was any other attempt made during the time you were in command?

A. The only attempt made by the enemy was the one I have stated in the rear. They were driven back immediately.

The witness withdrew.

Captain BROWNE was called in.

Judge Advocate.—I have to state to the Court that I have called another witness, Captain Browne, who was one of General Whitelocke's aid-du-camps. Having already, by a great variety of officers, proved, as far as I am able, all that passed on that day, I am not aware, that by any examination of Captain Browne, I can add anything to the evidence which the Court have already heard; at the same time I did think it desirable that every one of the Staff Officers, who were with Lieutenant General Whitelocke in the course of that day, should be here ready to answer any questions which the Court might think fit to put to them. As far as I am concerned I am not aware that I can give any additional information to the Court, and therefore I shall not ask Captain Browne a single question; but I thought it right he should appear here, that if the Court have any questions to ask they may do it. If they have any it will be necessary that Captain Browne should be sworn.

President.—No Member of the Court wishing to put any questions, Captain Browne may withdraw.

Judge Advocate.—With respect to the fourth charge, the Court, upon looking into that charge, will perceive that the evidence of one witness would be indispensable, namely, that of Lieutenant Colonel Browne, who was left in command of the garrison at Monte Video. He was extremely anxious to quit London, as I understood ; and having been informed by General Whitelocke that he was perfectly ready to admit the only facts I could call upon Colonel Browne to prove, it appeared to me that it was perfectly unnecessary to give him, or the Court, the trouble of hearing his evidence. The facts which he would have stated, if he had been called, and which, I understand, are admitted by General Whitelocke, are these:—that the fortress of Monte Video, was, at the period of the treaty, well and sufficiently garrisoned and provided against attack ; and was not at such period, meaning the period of the treaty, in a state of blockade or siege. Those facts being admitted, of course the necessity of Colonel Browne's evidence is done away ; therefore, you will enter upon the minutes that it was admitted by Lieutenant General Whitelocke, that, at the period of the treaty, the fortress of Monte Video was well and sufficiently garrisoned and provided against attack, and was not, at such period, in a state of blockade or siege. I have now to inform the Court that I have concluded the evidence on the part of the prosecution. It will be for General Whitelocke and the Court to decide when General Whitelocke shall enter upon his defence.

President.—As I understand it will not be convenient for General Whitelocke to enter upon his defence until Monday next, the Court is adjourned till that day.

THIRTIETH DAY.

MONDAY, MARCH 14, 1808.

A letter was received from General Piggot, stating that he was confined to his room by an attack of the gout in both his feet; and inclosing the certificate of Mr. Young (his surgeon) verifying the fact.

General Whitelocke read his DEFENCE:

THE satisfaction I feel in being at length permitted to claim the attention and indulgence of the Court, is proportioned to the anxious impatience with which I have looked forward to this opportunity of explaining my conduct in South America; and the causes that led to the result which constitutes the subject of the present investigation. The disappointment of the hopes I had entertained of the success of an expedition upon which such expectations in every point of view, military, political, and commercial, had been formed, had prepared me to meet a strong and general feeling corresponding with my own, the natural and almost necessary attendant upon public disappointment and misfortune. I had prepared myself also to hear the clamours of the disappointed, and strictures upon my conduct from those whose wishes and interest led them to judge from events only, without any adequate means of information. But feeling conscious that I had zealously and earnestly *endeavoured* to perform my duty; and that, in the ultimate sacrifices which adverse circumstances had induced me to make, I had disregarded all interested considerations, and been actuated only by public motives; I confess it was with surprise, as well as mortification, that I found on my return, that the opinions which had been so industriously propagated as to my conduct in South America, had, almost without enquiry, been adopted by the highest authorities;

that calumnies, the most injurious to my character, had been made the subject of discussion ; and that in the absence of any evidence to support them, or of any individual offering to stand forward as my accuser, proceedings (novel in our military jurisprudence, however they may be sanctioned by other Courts) were adopted, for the purpose of considering whether those calumnies were to be still further sanctioned and made a subject of charge. The conduct of myself and others had been prejudged, and made the subject of intemperate and premature discussion in the daily papers, while I was absent; and I was, without trial, or even enquiry, held up as an object of public indignation and scorn, and as having disgraced myself and my profession, and the military character of my country. It soon became known that the government had determined that an investigation of my conduct should take place: the editors of the public papers, actuated by a sense of decent propriety and common justice, immediately forbore any further comments. But a subaltern officer who served in the expedition thought fit, with a full knowledge of my being under arrest, and therefore, to all purposes of law and justice, upon my trial, to publish a libel upon the conduct of myself and others, for the express purpose of procuring a profit to himself, at the expense of a gross violation of every principle of honour or feeling and of the laws of the country, endeavouring to keep up and excite the strongest prejudices of the public against me, and if it were possible, to influence the minds of those who were to be my judges; and a field officer of another regiment has felt no shame in patronising this libel, and distributing it with the greatest industry.

Irritated as I necessarily felt at these unmanly attacks, and at hearing the misrepresentations upon which they were founded, and anxious as I must be to retain the good opinion of my country, I still felt that a regard to my own character and situation, the respect due to the illustrious

personage at the head of the army, and to my sovereign, and in a case like this (where the public is so deeply concerned) still more perhaps to this honourable Court, imperatively called upon me to await in silence the opportunity which I found was to be afforded, of explaining to my sovereign and the country my conduct in the command which had been entrusted to me.

I therefore forbore to answer any of the calumnies which have been propagated against me, or to sanction any publication or paragraph upon the subject, and retired until the approach of this trial into the country, denying myself even the gratification of associating with many valuable friends, who have been anxious to shew themselves superior to the prejudices excited by popular clamour, and to mark their attention to me since my return. I mention this thus pointedly, to prevent any possible suspicion being entertained that I could sanction, or had any knowledge of a vindication of my conduct, which has been published by some person wholly unknown to me; and I am more anxious to do this, as that publication contained strictures upon the conduct of others; and I trust, therefore, that the Court will excuse my having occupied a few moments of their time upon this subject.

I felt it my duty to controul, but I could not subdue the feelings excited by these attacks; and I considered therefore the opportunity afforded me of entering upon my vindication, as my best protection against public prejudice.

The knowledge that my motives and conduct were to be submitted to and judged by a tribunal, composed of persons alone competent from their rank in the service, their habits, experience, and talents, to form a just estimate of all the peculiar circumstances which form the subject of the present investigation, supported me during an anxious period of suspense and procrastination. I considered my trial as an appeal from popular clamour (for such I cannot but call it, as applied to me before either trial or enquiry, however

general or high the sources might be from which it sprang) to honourable and candid minds divested of all those feelings and prejudices which sway and direct the course of public opinion : and I confess I had flattered myself that I should on this subject have found a protector even in my prosecutor; and that, considering his anomalous and almost (I hope I may, without offence, say) incompatible duties, he would, in the character of an adviser and assistant to the Court, have divested himself of every feeling connected with public prejudice, and have permitted my trial to have commenced at least without the extraordinary comment which excited so much surprise I believe in all who heard it; and which, in the situation he fills, and considering the last character he is to sustain, after the proceedings are completed, and your deliberation commences, of an adviser on points on which you may require his assistance, I can hardly think could be deemed justifiable at *any* period of such a trial, or after *any* evidence, however strong, which could have been produced. The Judge Advocate General stated that he should follow the example of his predecessors upon similar occasions, by abstaining in that stage of the proceeding from any detailed observations upon the charges. The only case of importance in which a Judge Advocate has stood in a similar situation to the present, was on the trial of the late Lord Sackville, on which occasion Sir Charles, then Mr. Gould, made no address whatever to the Court on the opening of the prosecution; and in his reply most studiously avoided making a single observation that could in the most distant way be considered as addressed to the feelings or passions of the Court, although that transaction had excited more of popular feeling than any which had ever occurred; so much so as to leave it, possibly for ever, a subject of historical dispute, whether the judgment even was not in some measure influenced by that feeling.

I put it to the liberality and candour of the Right Honourable Judge Advocate, whether I have not some little right

to complain, and cause to lament, that he had not followed the example of his predecessor, and abstained from stating to the public (for such an address could not be intended for the Court) that “*hopes* had been,” as he was pleased to say, “*justly* as well as *generally* entertained, of discovering new markets for our manufactures, and giving a wider scope to the spirit of mercantile enterprize, and opening new sources of treasure;” although every information as to the state of South America, and the hostile and implacable spirit of its inhabitants towards us, has proved that those hopes were completely fallacious: that he had abstained from calling in aid of these charges the “attempts daily making to exclude our trade from the continent of Europe, and even the present crisis of the world; or the aggravation of the public misfortune, by the accumulated weight of all these considerations; or the circumstance of reports to my prejudice having survived the first impressions of public sorrow, as a proof that they have not originated in the natural impulse of the human mind, to find an object on which to attach blame.”—Well may they survive and continue, if, in a Court of Justice, these topics could be enforced with such studied strength of expression, by a person whose rank and station in life, and public character in the Court, could not but stimulate the already too much exasperated state of the public mind upon this transaction.

I am satisfied, that when the Court advert to the manner in which I have been pursued, and I may say, condemned, by public clamour, without trial or enquiry, they will forgive my having made this comment; and will permit me also to state a more serious, though not more irritating ground of complaint which I cannot but think I am intitled to make, upon the manner in which the prosecution against me has been conducted, and the nature of the evidence which has been produced.

A misfortune naturally exciting strong public feeling may impose upon the government the duty of directing, that the causes of that misfortune should be investigated. Such an inquiry is (as the Prosecutor has justly stated) as necessary to *my* vindication, as it is to the public satisfaction. If I have been unfortunate, and not culpable, it is the only means by which I could stem the tide of prejudice: and if I have been culpable, it is necessary for the purpose of ascertaining the degree in which I have erred, and of presenting to the public ample materials, upon which a correct judgment may be formed of my conduct. A great and important expedition has failed. The reasons of that failure are to be sought for in my conduct, as the person responsible to the public for its success; and no difficulty could have arisen, indeed no difficulty did arise, in selecting particular events and facts which led to this failure, as grounds of charge against myself, and for which I was to account. I did not complain, because I did not feel that I had a right to do so in such a case, at additions being made to the particulars so selected, after the charges had (for the purpose of enabling me to prepare to defend myself) been first with a candid liberality delivered to me: but I had hoped, when I read these charges containing such specifications, and with such epithets, as could not but excite feelings of mortification which could hardly be encreased, even by any sentence of this Court, that I had heard all which was so alledged against me: and little did I expect or imagine, that I was to be called upon to recollect and defend every act, every order, every expression, and almost every thought, not of myself only, but of others;—every detail, however minute, and whether it had or ought to have been brought under my cognizance as commander or not; in short, (as the Prosecutor has avowed and stated) not merely the causes which prevented the reduction of the province of Buenos Ayres, but my whole conduct in the expedition;

an investigation now (as he truly stated) for the first time, and, I hope for the sake of justice, for the last time, instituted in a military Court; still less could I suppose, that the protection of the Court could have been necessary to prevent a prosecutor, educated in legal habits, from pursuing me even to my private moments, and requiring my secretary to state all the conversations that in the confidence of our relative situations had passed between us; and yet it is at this point only, and that through the interposition of the Court, the Prosecutor has stopt in his enquiry. I entreat the Court calmly and candidly to review the evidence, and to separate (no easy task) that which is applicable to myself, from that which applies only to others; but more particularly to separate evidence of opinions as to our operations founded upon experience acquired by misfortune, and not upon that which was, or could be, known before the operations took place, and upon which only I could have acted, and by which only I am to be tried—in short, all the evidence which applies, the result and subsequent knowledge, instead of previous information, as the criterion by which the propriety of the measures adopted is to be tried. Let it not be said that this arose out of the nature of the prosecution; for if it did, nothing can more strongly evince the injustice of such a course of proceeding. The accused has no protection against it—a natural jealousy of any interposition which bears the most distant appearance of shutting out any investigation, however remote its application, prevents the possibility of his interference. I hope I cannot be accused of having interposed captious or trifling objections: I have studiously endeavoured to avoid doing so; but it cannot have escaped observation, nor will it hereafter, when this trial is referred to, that, in the few instances in which I have interposed, and in which I have retired from the Court with the openly expressed opinion of some of the Members of the Court in favour of my

objection, leaving the prosecutor in the extraordinary situation of advising the Court as to the propriety of his own question, or the validity of my objection, I have had in being under the misfortune of finding the Court unanimous against me. The Court, in elaborate narratives, on such extended grounds, comprising every act and word, can hardly interfere. The witness, without legal as well as military knowledge, cannot select that which he is either bound to stop, or is justified in stating from that which is not evidence against the person charged: the necessary consequence (and against which I should have been intitled to, and should have had, the benefit of the Judge Advocate's protection, if he had not also been my prosecutor) is, that every occurrence, every irregularity, every conversation of others, is brought to make an aggregate most prejudicial to me; not merely with reference to the protraction of the investigation (in itself no trifling evil), but also in the impression produced even on those most capable of separating that which is applicable from that which is not. I might with confidence ask every Member of the Court, whether he can possibly divest himself of general impressions arising out of such a course of evidence; and whether the necessary consequence of such a course of proceeding is not to give a colour and unfavourable complexion to all the errors I may have myself committed; whether, in fact, it has not, in some measure, the necessary and inevitable tendency, even with the strongest minds, and with those who are bound in duty to resist such impression (much more with the public, already too deeply exasperated against me), to load me with all the errors which may have been committed by others, as well as by myself, from the first hour of my landing to my quitting the continent of South America. But in addition to this consideration, I ask those honourable Members of the Court, who have either commanded, or accompanied in high stations, important expeditions and

military operations, whether any expedition, or long course of military operations, however successfully terminated, could stand the test of such an inquiry, so conducted. I put it to the candour and liberality of any individual Member of the Court, who has been so situated, whether, in looking back with the benefit more particularly of subsequent knowledge, and experience of localities and circumstances, he cannot discover hundreds of instances, in which he would have pursued a different course with respect to many inferior and accessory details and operations. Let it not for a moment be supposed, that I state this as depreciating the talent of those to whom I am making this appeal, or as comparing mine with theirs. Their high public and military estimation, derived from acknowledged talent as well as success, must immediately repel such a suspicion. I ask only the benefit as applicable to myself, in shewing the hardship and injustice, in every point of view, of such a course of proceeding; satisfied, that, when the Court hereafter, and the public at future periods, apply these remarks to the conduct of the prosecutor, and the mode in which the evidence has been brought forward, it will be seen and felt, that I do not complain of this without abundant cause. I think that when the Court consider, that from the importance of the subject, the peculiar nature of the trial, and still more from the professional rank and experience of the Members, this case will be referred to in military history and jurisprudence, as a precedent, they will join with me in lamenting that the course of proceeding has put upon their minutes so much evidence of the description to which I have alluded. I most earnestly entreat the attention of the Court to these observations; and that they will bear them in mind as applicable to many of the observations I shall have to make upon the evidence in detail: and I am confident that, when the peculiar situation in which I stand here is considered, the Court and Judge Advocate

will believe, that it is with extreme reluctance, and under a strong sense of the importance of this part of the case to myself, and to future military jurisprudence, that I have allowed myself to make a single comment upon this subject.

I shall now proceed to the subject of your inquiry. You are called upon to investigate the causes of the disappointment of the public hopes; to ascertain whether they are to be found in an unskilful and improvident use of the means placed in my hands for obtaining the object in view, or in the false expectations which, from various causes, had been raised upon this subject, and in the false views entertained and acted upon in relation to it. That false expectations have been raised, and such views entertained, I will prove to the Court, from the evidence which has been given, and by arguments drawn from that evidence, so conclusive, as to force conviction upon the minds of the most prejudiced.

That false information, arising from various interested motives, had been given to the government of this country; my situation has afforded me ample means of knowing; that it has been acted upon will appear from my instructions. To a full explanation upon this subject, which it is my duty to give to the Court, I must request your patient and earnest attention; without it, no judgment can be formed as to the propriety of my conduct, or whether I exercised a sound discretion in the measures which I adopted. It is, in the first place, necessary for my defence; for, unless the situation in which I was actually placed, with reference to the possibility of obtaining any commercial advantages, unless the political situation of that country, the dispositions of the inhabitants towards us, their views in relation to us, either as to what had passed, or future intercourse, are fully understood, no correct judgment can be formed upon my conduct. I shall, therefore, enter upon this explanation, before I proceed

to consider either the charges, or the occurrences which preceded or gave rise to them. And I am more particularly anxious to impress this subject upon your minds, because the fallacy and consequent disappointment of the hopes entertained, in relation to our intercourse with South America, has given rise to the greater part of exasperated feeling, which has been exerted by those whose hopes have been thus checked.

A free and unrestrained trade with South America has long been eagerly sought and looked to, as opening one of the widest fields for mercantile speculation. Many circumstances combined to produce this impression, not merely on the public mind, but upon the minds also of many great and eminent statesmen, whose opinions have justly been entitled to the highest respect.

It was known that our commodities were sought with avidity, and procured at any hazard; though necessarily, from the restrictions enforced by Spain, to a limited extent only. It was known that those restrictions were the subject of complaint throughout the greater part of the Spanish Indies. It was also known that the people were divided into factions; that these various causes had rendered a large proportion of the inhabitants ripe for revolt; and that great numbers have anxiously looked to a separation from their mother country, as the only means of availing themselves of the natural advantages of their local situation. It was therefore naturally concluded, that the people who considered themselves as oppressed rather than protected, as excluded by restrictions, founded upon a narrow and selfish policy, from many commercial advantages, would gladly change their government; and that if we were once established in military posts in the country, the above causes would make it easy to open an extensive intercourse with the inhabitants, and new channels for trade and commerce. It was supposed that the character of this country for liberality and good conduct towards those who came under our dominion, ensured us the good wishes of the greater

part, and the co-operation of a large proportion, at least, of the community. The public hopes and expectations were raised to the highest pitch ; and no suspicion existed that it was possible for the greater part of the population of South America to entertain any other than a just feeling of attachment to our government ; still less, that it was possible that such a rooted antipathy could exist towards us, as to justify the assertion (the truth of which has been proved to demonstration) that we had not, when I arrived in South America, one single friend in the whole country. Whether the opinion of the illustrious statesman, now no more, who had so frequently turned his thoughts towards South America, had led him to contemplate the propriety of establishing military posts there, or the co-operating only with those who would gladly have followed the example of North America, and availed themselves of our assistance in establishing their independence, I have no means of knowing ; but experience has shewn, that any other course of proceeding, even if most successful, and almost in proportion to success, had the effect of placing us at a greater distance than ever from our ultimate objects—those of friendly intercourse and trade with the country. An attack, attended with temporary success and ultimate misfortune, had taught us to estimate, rather more highly, the difficulty of obtaining an establishment in the country ; but the delusion upon the subject of the feelings of the people towards us still prevailed. Various motives and circumstances contributed to promote and keep up this delusion. The mercantile interest felt unwilling to relinquish the hopes and expectations excited by the attempts which had been made, though evidently proved by the result to be premature. Those who had made that attempt were unwilling to believe or admit that the whole population of the country were originally hostile to us ; still less, that they had become hostile from that attempt.

The first admission would have condemned the first at-

tack as ill-judged in point of policy, and the last would have implicated the conduct of the authors of it.

Monte Video had been represented by persons, who had been in the Plata, to be garrisoned by a few hundred men, two thirds of whom were stated to be ready to join us; and persons engaged in trade, more particularly the South Sea Whalers, who were anxious to establish the means of having an outward freight of the articles of this country, were daily surrounding ministers with representations of the state of the country, which, from the apparent accuracy, and the supposed authenticity of the sources from which they were derived, it was impossible to doubt. The very able officer, who acquired so much distinction in the capture of Monte Video, went out under that impression. I sailed under the same impressions—my instructions, to which I must call the attention of the Court, were founded on the information I have detailed.

It is supposed that, after effecting my first object, I might safely part with a proportion of the force under my command, and retain only about 8000, which it was supposed must, in any case, “*in addition to such troops as might be raised in the country,*” be amply sufficient; for such had been the misrepresentations to government upon this subject, that it was supposed that a considerable force of this description might with safety be established. I was directed (as the Court will have observed) to use precaution as to the raising this local force, and particularly to take care that one third of each rank of officers should be British, and to select the description and classes out of which it was to be formed; but, subject to these precautions, it was *conceived (and so stated in my instructions)* that much aid might be derived from this source towards securing his Majesty's possessions in that quarter, and avoiding, at the same time, the necessity of too large a demand on the regular forces of this country—(I use the very words of the instructions)—such (as the Court will have seen) was the impression in this country, on my

assuming the command. What was the actual situation of the country on my arrival?

I naturally resorted to the very able and experienced officer who commanded at Monte Video, and who had diligently employed himself in acquiring every possible information upon this subject. I found that, in course of his operations against Monte Video, and after its capture, he had every reason to believe that the people were, without exception, inimical to us. That, previous to the surrender of Monte Video, he could place no confidence in any information he received; and, that, after its capture, a sullen silence pervaded every rank. But he also found that, however inimical they were to us, they were still more so to their present government; for, upon reports arriving at Monte Video, which afterwards proved false, of the abolition of the Court of Audiencia, the setting aside of the king's authority, and not hoisting the Spanish colours; those who had before appeared hostile and inveterate, now pressed him to advance a corps to Buenos Ayres, and assured him, that, if he would acknowledge their independence, and promise them the protection of the English government, the place would submit.

The escape of General Beresford and Colonel Pack proved the report to be false; but, that the Viceroy had been made prisoner by his own people, and that the city was a prey to disorder and tumult.

A hope that this disorder might aid his views, induced him to write to those who possessed the supreme authority in Buenos Ayres.

His letter was answered by General Liniers, the Audiencia, and the Cabildo.

General Liniers concludes his letter with these words.
 " I have only further to observe, that the determination of
 " the people, as has been represented by their magistrates, is
 " irrevocable; they are resolved to defend themselves to

“ the last extremity, and prepared to make their defence
 “ memorable.

“ Your Excellencies will, therefore, avoid making any
 “ further offers ; for be assured, that no answer will be
 “ returned, and that nothing but force can decide our fate.”

The Audiencia say, “ The offer your Excellencies now
 “ make us of our laws, religion, and property, under the pro-
 “ tection of the English Government, is conformable to the
 “ conduct held by Major-General Beresford ; it is an offence
 “ against the high honor of our nation, and we understand it
 “ as such : Spaniards only value their property and their lives,
 “ that they may employ them in the service of their
 “ king.

“ The people of Buenos Ayres are the most faithful to
 “ their sovereign of any who acknowledge his dominion,
 “ and feel themselves happy to be under it, and are anxious
 “ to sacrifice every thing in proof of their loyalty.

“ The numerous troops which we have here are pre-
 “ pared and disposed to make the most vigorous defence,
 “ and the premature proposals with which your Excel-
 “ lencies have endeavoured to weaken their love for their
 “ king, have produced no other effect than that of indig-
 “ nation, which will impress every one with energy to
 “ resist any attempt to destroy their happiness.”

The Cabildo state, “ We are prepared to spill the last
 “ drop of our blood, to prove to the world, that we are
 “ good subjects, and true Spaniards, and that we are lovers
 “ of humanity, even towards those who off the Cape
 “ St. Mary, violated it in the manner which was witnessed
 “ by the whole universe.”

I would not quote the answers of a General, or of public
 bodies, to such a letter in proof of their sentiments, if every
 subsequent intercourse and event had not shewn, that in
 enmity towards us they too truly expressed the real feelings
 of the writers, and disposition of the country.

They are unanimous in their determinations, and so they proved to be in their conduct towards us.

Sir Samuel Achmuty found that there were two parties in the city.

The party in power were mostly natives of Spain, in the principal offices of Church and State, and devoted to the Spanish government; and accordingly the Court will observe, that the ground of rejection of Sir Samuel Achmuty's proposals by the Audiencia, were determined loyalty; a sentiment that is scarcely alluded to in the letters of General Liniers, or the Cabildo.

It had been their policy to inflame the minds of the lower order against the English, by every species of exaggeration and falsehood, and to lead them to such acts of atrocity, as might preclude the possibility of any communication with us.

From a consciousness that similarly situated they would breathe nothing but revenge, they expected no mercy, and were become desperate and determined.

The second party consisted of natives of the country, with some Spaniards settled in it.

The oppression of the mother-country had made them most anxious to shake off the Spanish yoke; and though from their ignorance, their want of morals, and the barbarity of their disposition, they were totally unfitted to govern themselves, they aimed at following the steps of the North Americans, and erecting an independent State. If we would promise them independence, they would instantly revolt against their government, and join us with the great mass of the inhabitants. But, though nothing less than independence would perfectly satisfy them, they would prefer our government either to their present anarchy, or to the Spanish yoke, provided we would promise not to give up the country to Spain at a peace; but, until such a promise was made, we must expect to find them open or secret enemies.

Such was the information I received from Sir Samuel Achmuty, which I have detailed in the very words in which he had, shortly before my arrival, communicated it to the government here; and which I use, because I could not so clearly, so forcibly, or so concisely, state it in other language. Every day produced occurrences which tended to confirm the truth and accuracy of this account. We could not procure intelligence upon which we could place the least dependence, we could neither procure guides, nor accurate accounts of the country for our future operations. Force procured us all we possessed, or wanted; good will, nothing; and, but for some accidental circumstances which threw in our way two or three persons, who had some slight knowledge of the country, we should have been wholly destitute of any information whatever. The evidence which has been given upon the second charge, has shewn how very scanty our sources of information were.

I have gone at considerable length into these preliminary points; but, as without an accurate knowledge upon this subject, no fair estimate can be made either of the difficulties which I had to encounter, or of the circumstances and motives which ultimately guided my decision, I feel satisfied that the Court will forgive my thus trespassing upon their time and attention. Every thing valuable to me in life is at stake upon the issue of this investigation. I have been the object of the most virulent attacks and intemperate observations, and the clamours which have been raised and excited by the interested and disappointed, have produced considerable impressions upon the minds of those whom prejudices and popular outcry ought not to affect. Had these attacks and clamours been confined only to the interested and disappointed, I should have disregarded them as the offspring of mean and selfish passions; for I knew the sources from which many of them sprang, and the causes which had produced them. Needy adven-

turers, either speculating on their own account, or as agents for others, who looked to our intercourse with South America as a source of unbounded wealth, saw their apparent prospects of gain interrupted. Many who had looked to situations and employments in the newly acquired territories, saw the termination of all their hopes and prospects. All these descriptions, (and they were numerous,) considered the person who had given up South America, as a personal enemy; as the destroyer of all their hopes and prospects; and few had either the information, or means of using it, necessary to ascertain, whether their disappointment arose from the fallacy of their hopes and speculations, even in the event of a successful termination of the expedition, or from the failure itself; still less were they inclined to submit to any personal sacrifices for any object of public interest. I wish to except from these observations, many respectable merchants and individuals, who were actuated by very different feelings; and towards myself have pursued a different line of conduct. I cannot, and I should be unworthy of the situation and rank I have filled in life, if I could be indifferent to public opinion; I am well aware, that a very general irritation has been produced upon this subject; and I know that this feeling has been encreased, if it has not in a great measure arisen from a false estimate of the value of what might have been gained, and of what has been lost. I have hitherto, from motives of duty, refrained from discussing even this general part of the subject, however much it might have tended to have allayed the feeling which had been excited; and I trust the Court therefore will forgive the anxiety I have felt, to enter so particularly into it now.

I will now proceed to the charges brought against me, the observing upon which the Court will see the application of these preliminary remarks, and I trust, feel their importance.

I am most anxious not to trouble the Court with irrelevant or unimportant details, more particularly as the length at which I have already been obliged to comment on preliminary points, and at which I must observe upon the really important parts of the case, must necessarily induce a wish not to occupy the time of the Court on inferior considerations. In considering these details, I feel under a difficulty imposed upon me by the manner in which some points have been stated, and apparently pressed with eagerness, when I objected, and afterwards forgotten; I will endeavour, however, shortly to observe upon those which do not seem to have been wholly dropped, in the order of time in which they occur, as that course will best enable the Court to pursue the subject in a connected detail; and, in this view, I will first dispose of that part of the subject which relates to the time of year chosen, and the preparations made, before I left Monte Video.

If in adverting to any of these subjects, I occupy the time of the Court upon points on which they are already satisfied, I trust it will be attributed to the course pursued in the prosecution, and the impossibility of my ascertaining whether any impression has been made by them or not. I will candidly tell the Court the motives which led to each determination; and in many cases, to a choice between opposing difficulties, not contending that in every instance the choice I made, even upon the view of the subject presented to me at the time, was the best, for it would be the height of presumption in me to do so, still less that subsequent experience and consideration, and events, may not have proved that I might, in many instances, have adopted better measures. But it will, I trust, appear to the Court, from the detail which I am about to give, and the evidence to which I shall

refer in support of my statement, that I have been actuated by a zealous wish to perform my duty, and, so far from obstinately pursuing hasty preconceived opinions of my own, have, in all cases, availed myself of the local knowledge of others, and determined, unhappily for myself, in some instances, as I thought circumstances compelled me to do, even against my own judgment.

I expected, on my arrival, to find a large proportion of the inhabitants prepared to aid our views, accurate information for the arrangement of future operations arising from friendly intercourse with them, and a body of cavalry formed, or at least the means of forming it. I found a country completely hostile, in which we could not by conciliation or interest procure a friend either to assist or advise us, or afford the slightest information. Horses, but no adequate means of feeding them, and which therefore, though well adapted for the armed inhabitants, who turn them out, when tired, and take others, could not until time and possession of the country had matured a new system, form an effective body of cavalry.

No one circumstance accorded with the information I had received, or by which I was directed to act in my instructions. The same causes operated both to lessen the resources which were considered as available, by those who sent me; and to increase the obstacles which were to be overcome by the means within my reach.

I immediately began to make the most active exertions to counteract the effect of these disappointments, directed steps to be taken by General Lumley for encreasing our cavalry, and the most unremitting efforts to be made, at an unusual expense, by the Deputy Commissary, who

had been some time resident in the country, to procure grain, particularly for feeding and improving the effective condition of the cavalry, ordered pontoons to be constructed, and every other preparation which occurred to myself or was suggested by the experience of others; and it has neither been stated or attempted to be proved, that I either neglected any suggestion on that head, or failed in giving every facility and encouragement to the different departments connected with our preparations. The direct contrary has been proved by the officers of cavalry and artillery, as to their departments, and I can hardly think that the evidence of the Commissary General, who had been only a few days in the country, and possessed no local knowledge to make up for want of former experience in active service, would prove any failure on that head, to which, however, I will more particularly advert hereafter.

The first subject of consideration was the season of the year. On full consideration I finally determined upon attacking Buenos Ayres before the winter season of rains, to which I was induced by many motives. I knew that, upon the arrival of General Craufurd, I should have collected all the force which I could expect, and all the transports which I could hope to procure for their conveyance. The difficulties to which I have alluded were not such as could be either obviated or in any way lessened. Delay, therefore, would not add to our means of attack, while the exertions of the enemy would be encreased from day to day, and more particularly when they heard of the accession of our force, by the troops under General Craufurd; and troops, or, at all events, officers and arms might have arrived from Europe. The frigates taken by Sir Samuel Hood were at one time supposed to have been destined to South

America. It appeared, therefore, to me, and those with whom I consulted, that it was most advisable to make every necessary preparation, before the arrival of General Craufurd, and commence our operations as soon as he joined; and, in order that I might lose no time, and might reach Buenos Ayres before the rains commenced, horses, stores, and troops, were, as has appeared in evidence, embarked the moment we heard of his arrival in the River Plata. Unfortunately, contrary winds detained him until the approach of the rains; but we had still hopes to accomplish our main object, and at the same time put the troops under cover, which could only be done at Buenos Ayres; for, at Monte Video, we must either have turned out the inhabitants, or erected barracks for that purpose. Before I quit Monte Video, I must advert to circumstances which have been proved, as to the equipments of the cavalry. Upon this subject I beg to refer the Court to the orders given for the reduction of baggage, dated the 3d and 11th June. When the Court considers our limited means of conveyance for horses across the river, and the inefficiency of those we could convey, the reduction of the baggage cannot be thought a matter of trifling importance. I request the Court to compare the evidence which has been given upon the subject of these equipments with the orders. It has appeared that I directed different officers, and General Lumley in particular, to communicate with my second in command upon the details of the army, particularly relating to the cavalry. A difference arises, at a period when unanimity was most essential, between my second in command and General Lumley. I had no knowledge of what had previously passed, nor can the language used, with reference to the king's regulations, affect me; this dif-

ference is referred to me. I directed the former orders to be carried into execution, but am I criminally answerable for the mode of carrying them into execution. I was wholly ignorant of any thing which passed, except as it related to the general orders for lessening baggage, upon which I certainly felt some anxiety; and I am satisfied that the Court will see that the precipitation, or want of care, if there was any, with which the order was executed, or any hardships in the manner of doing it, could not impeach me, even if it had affected our preparations for crossing the river, which it is distinctly in proof it did not, for we carried complete equipments for all the dismounted cavalry in the country. In fact, I do not even recollect ever to have heard, before the detail which has been given in Court upon this subject, that I was inattentive to the cavalry, has been completely disproved by General Lumley, who expressly states, that I afforded every facility and encouraged every exertion upon that head; and that, accordingly, every exertion was made, as to collecting horses; and I shall further, as I before stated, shew my anxiety to render them in every respect effective, by the great exertions made to procure food for them. I will next advert to the transports, to the horses and stores landed, and the place selected for landing, upon which I should not even make an observation, if the prosecutor had not appeared, on various occasions, in the conduct of this case, to rest much upon the expediency of landing above the town, and using flat bottomed boats for that purpose. Colonel Bourke, Quarter Master General, was sent up, with a most intelligent and active naval officer and four pilots, to reconnoitre the river. I think I shall not be considered as having acted wrong in submitting to the

opinion of that naval officer, as to the impracticability of carrying the transports so high up. The distance, at which the vessels carrying the troops must have remained, would have made any attempt to land the men above the town, even if we had possessed the most ample means of conveyance, highly imprudent. The report of Colonel Bourke, upon whose intelligence and opinion I could not but place the strongest reliance, added to the knowledge of the difficulties encountered by General Beresford, in crossing the marsh at Quelmes, after a continuance of some months of dry weather, and the precaution taken by the enemy of erecting a battery on the high ground above Quilmes, induced me to discard all idea of attempting that point. I trust that, on a review of all the evidence upon this subject, I shall not be accused of using unnecessary caution, in selecting a place of landing, which afforded shelter, instead of using boats to carry the troops a great distance in an open sea, after the evidence the Court have heard from Admiral Murray upon the subject of the River Plata, and the sea which continually runs there, and his account, that even the gun boats, which are, as he stated, much larger than the men of war's boats, would have been sunk, if they had been off Buenos Ayres, instead of lying in a sheltered situation on the 2d of July. The impossibility of marching to Colonia, and crossing there, has been completely shewn; and the concurrence of opinions of Colonel Bourke and Captain Thompson, as to Ensanada, our knowledge of its being the embarking and disembarking place for the merchandize of Buenos Ayres in all large vessels, the presumption arising from the above circumstance, confirmed by our information, that the road was good to Buenos Ayres, and that the swamp was sound and could be crossed by a coach (the

expression used by our guides), at any season of the year, all led me to fix on that spot as a proper one for landing. I proceeded, therefore, to Ensanada. Upon the subject of transports, Admiral Murray has distinctly proved, that every transport, capable of going up the river, was used, and the troops from those whose draft of water would not admit of going up were doubled up in the vessels of smaller draft, for the express purpose of carrying as many horses, and as large a supply of stores as possible; and unless, therefore, we had left infantry behind, and that in the proportion possibly of about six or eight men for one horse, we could not have carried another horse with us for any purpose. That no supernumerary horses were allowed for the staff will appear, from the orders upon that subject, which were strictly carried into execution. It may be proper here also to mention, and I request the favour of the Court's recollecting it hereafter, that cavalry, comparatively speaking, could be of little use in our first operations, particularly for the attack; without infantry they could not act even as escorts, as has been proved by Captain Whittingham and others; and, until we had taken Buenos Ayres, and been sometime in the country, various local circumstances would have prevented our forming any effective body of horse. It has been stated, by Colonel Mahon, that the casualties in the horse were unusually great, and, in fact, the cavalry daily decreased, and became less capable of service.

The next, and, indeed, the most important part of the subject, as connected with preparatory details, is that relating to the arrangements for a supply of provisions, upon which the Commissary General seems to have considered himself not sufficiently consulted by me, and, in some instances, misled by the Quarter Master General.

From his late arrival with General Craufurd, he could have no local knowledge; and the preparations, with respect to the quantity of provisions to be carried by the victuallers, and transports, and the Lasso men, had been made by the Deputy Commissary, who had been long resident in the country. The Commissary General has stated, that he provided and took with him six light carts and mules, which, it has been proved, are more used for draft, in that country, than horses: this was, as I think I shall shew to the Court, the only preparation which, with reference to our means of conveyance and the objects in view, could be necessary, in addition to those made before Mr. Bullock's arrival. I shall have occasion to call Lieutenant Colonel Bourke on my defence, and must certainly, in justice to him, ask some questions upon part of the evidence of Mr. Bullock, which has as much excited my astonishment, as it must have done that of the Court; namely, what relates to the distance of the place of our landing from Buenos Ayres, and the supposition of the army re-embarking.

In order to apply the facts proved to our situation and to my conduct, I will shortly state to the Court the impression under which I acted, and the reason for no more preparatory arrangements being made; and will shortly advert to what has been proved to have actually taken place upon this part of the case. It has been proved, that my original intention was to take a position to the westward of the town, that is, on the heights of the Recolita and Tauros, with my left to the Plata, and then communicate with the fleet, and land provisions and stores. I was certain of a point of communication with the fleet on the march at Quilmes and Reduction; for though Quilmes might not be an eligible place to land at, with the enemy in possession of the height above with ar-

artillery, still it was obvious, that, as soon as we were in the possession of Reduction, we could communicate with the fleet, and get provisions in various ways through the marsh, even if it should be impracticable for horses and artillery, which, on examination by one of the officers of the staff, it in fact proved to be. I had accordingly made no particular arrangements as to the march, but procuring all the Lasso men we could get, and taking the light carts provided by the Commissary, and directing, as an additional precaution, that pack saddles should be carried for the horses, in order that, as our means of transport for horses did not allow of our giving a separate establishment of horses for the Commissary, I might transfer a portion of the mounted dragoons to the Commissariate, in case it became necessary for the march.

No doubt was entertained of three days ready cooked provisions being sufficient to subsist the troops to Reduction ; at which place, another supply of three days would have carried them to the westward of Buenos Ayres. Looking to the possibility of a necessity for falling back, from some unforeseen causes, before arriving at either of those points, a victualler had been left at the Ensanada, and another at Reduction. Such was the idea upon which I set out; and that plan, it will readily be admitted, was simple and easy to be executed, and required no further arrangement than what had been made. On hearing the report of the nature of the swamp, after landing, and having further intelligence of the many rivulets between the Ensanada and Reduction, it appeared an object to carry on some supplies CONTRARY TO MY ORIGINAL intention ; for this purpose, I ordered two troops of the dragoons to be turned over to the service of the Commissary; and, by this means, (though

much was lost) yet some bread was carried on even to the last day's march.

The Court have heard the swamp described by officers who have served in other countries.

It has been proved, that five of the guns were left in it; that the light carts belonging to the Commissary, with the spirits, could not be brought through it, and that, in the attempt, all the casks, except one, were staved. When the Court advert to the intelligence which I had received, as to the landing place and swamp, and road to Buenos Ayres; the reasons I had from the use made of the Ensanada de Barragon, as a port of embarkation for merchandize, to suppose that information to be correct; and the evidence which, after a long investigation, has, in detached parts, been given upon the subject of these preparations, I cannot but flatter myself, that no blame can be imputed to me on these points, as far as they apply to preparatory arrangements; and I should not do justice to Lieutenant Colonel Bourke, or those employed in surmounting the obstacles opposed to our progress by the swamp, if I did not say, that the delay in reaching the heights cannot be imputed to them; for, I can with truth say, that more zeal or resource was never shewn, nor more indefatigable exertion used, on any similar occasion.

It is with some reluctance that I enter so much at length into this subject, or advert to this obstacle of the swamp, or those which occurred afterwards upon the march of a similar description, lest it should be supposed that I either then or now considered them as obstacles of any real importance on the great scale of our operations. I wish to be understood as not having viewed them in that light at the time, and as not using them in that way now. I am unavoidably compelled to enter into

these details, and to appear to attach importance to matters of very trifling comparative moment to those which you are called upon to consider by the conduct of the prosecution, and the consequence given to those inferior arrangements, by the mode in which they have been scrutinized, and the time they have occupied. I use them merely for the purpose of proving, that the country, with reference to some of those localities, is different from all others in which our armies have before served; and that therefore, with respect to various circumstances connected with our movements, and inferior details, rules applicable to other countries do not apply. How far it was either necessary, proper, or called for, in a case of this description, to enter into a history of all those details, is not for me to judge. I am bound to meet every accusation, and repel every imputation which is attempted to be cast upon me; and in that view I rely upon the candour of the Court for excusing my occupying their time so long on these parts of the case.

Notwithstanding all the exertions which could be made, the artillery which proceeded with the main body did not reach the height until the 29th of June, and the whole of the army, and remaining artillery, did not arrive on the heights until the evening of the 30th.

I was aware that the men would have to suffer some privations, from want of spirits, and loss of part of their bread; and I well know that, in all such cases, those who suffer are apt to consider every difficulty they are called upon to encounter, and every hardship they endure, as proofs of neglect in those above them; and that the inevitable consequence is a want of confidence in the General, to whose failure in arrangements all those privations and difficulties are imputed, as every body, after such occurrences, is fertile in expedients which would

have obviated them : in this point of view only could they be of any importance in this case.

Sir S. Achmuty, who mentioned the want of confidence in the soldiers in his evidence on the fourth charge, expressly states, that the men complained on the 2d of July. Other officers, who were examined on that point, heard of no discontent among the men ; and it seems to have made an impression upon the mind of Sir S. Achmuty alone.

As far, therefore, as they are explanatory upon that point, I have to thank the prosecutor for having introduced the subject : for, I trust, the Court will be satisfied, that no blame, or neglect, is imputable to me on this ground.

I gave the orders, with respect to the Commissary's department, which will be read ; and, in fact, found, before I left the heights, that there would be no difficulty in procuring a plentiful supply of cattle and sheep.

Before I quit this subject, I must advert to the complaint, I may almost call it, of one of the General Officers, upon the subject of camp-kettles, Lasso men, and want of spirits. Upon the first, I have only to remind the Court, that the observation of Brigadier General Craufurd would have been applicable to the old camp-kettles, but was quite inapplicable to those now in use, which cannot be carried by the men. We had only one very small light cart with the army ; for those brought by the Commissary could not be got through the swamp. Considering, therefore, that the men carried three day's provision, ready cooked, and that we were to communicate with the fleet, camp-kettles were not necessary, and would, with our limited means of conveyance, have been an improper incumbrance. In fact, though the men certainly suffered privations, and particularly felt

the want of spirits, of which they much complained, yet there was no actual scarcity, during the whole march, felt by the body under my immediate command; nor by that under Colonel Mahon, nor reported to be felt by that under General Gower. But, on the contrary, on the morning of the 2d, in reply to an observation of Colonel Bourke's, who recommended the halt of one day, to receive another supply from the navy, and for other purposes, this Officer said, that his people made no complaints on this head; that they had supplied themselves; and that, in his opinion, no delay was necessary on this account. Brigadier General Craufurd's brigade must have been *particularly unfortunate*, not to have found, as well as their companions, especially when it is made known, that there were five Lasso men, and a Deputy Commissary, with General Gower's corps; and that, on my joining it on the 1st, I actually found a crawl full of bullocks on the ground it had occupied. Upon the subject of spirits, I had issued orders, that small kegs should be provided; and some Officers had procured them; others either had neglected to do it, or had been unable to get them. The Commissary has shewn the impracticability of bringing on the spirits in the carts. When all these circumstances are fully considered, I cannot accuse myself, and I hope and think that the Court will acquit me, of having been wanting in attention, either to preparatory arrangements on these subjects, or of any failure of exertion in endeavouring to remedy the inconvenience which occurred, from the causes I have stated.

That I may not be obliged again to recur to the subject of provisions, I will now notice a question put to the Commissary, "Whether any arrangements had been made to supply the army at the Corral, if we had not

procured the provision stated by Mr. Bullock?" It has been found then, upon which it is sufficient for me to observe, that I intended, as the Court will find hereafter, to take up a position to communicate with the fleet; and, when I altered that determination, I found an ample supply, which, in the situation the army then was, made any further arrangement unnecessary, as the attack, if successful, ensured us ample supplies, the town being, as Colonel Bourke has stated, full of corn at that time of the year; and, if we failed, the supply in our possession was much more than sufficient until we could communicate with the fleet.

I have been compelled to enter into many minute details, and am sorry to have detained the Court so long upon them, and will now proceed to the march from the heights of Barragon to Buenos Ayres.

I will now advert to the march, for explaining which, I must again avail myself of the recollection of the Court, as to the nature of the country, and the obstacles which presented themselves; what facilities it afforded of accommodation to the troops, in the articles of provision and fuel; the first rendered necessary by the losses of provisions, the latter not only for cooking the victuals, but also for drying the men, who had on each day's march to wade through deep waters, an object of attention to troops just landed after nine months voyage; and what was the nature of the resistance which could be opposed to us by the enemy. These, combined with other considerations, which I shall state, induced me to adopt the arrangement of dividing the army in the manner which has been detailed. Whether I adopted the best mode of proceeding, or if I did not, whether any such degree of culpability can attach to me on this head, as to have justified the making it a subject of such

elaborate investigation, will be for the Court to judge.—Estanious, or farms, occur at short intervals from Barragon to Buenos Ayres, along the edge of the heights above the swamp; but these farms do not extend into the country to the south-west, so as to have enabled us to move in more than one column, without losing the advantages I have before detailed, of provisions and fuel: at these houses, in general, sheep were to be found; but always fuel for drying the men and cooking the victuals. The country was open, and no enemy appeared to interrupt our progress; for the scattered horsemen which followed and surrounded us, were not an object of attention. No danger, therefore, could arise from the division of the army into three corps; and by moving in succession, and regulating our marches and halts, as it has been proved was the case, by the situations of these farms. I ensured to the men the accommodation afforded by these farm houses, without in the least impeding our march or rather arrival and junction at Reduction; at which place, it has been proved, I meant to unite the army, renew our provisions from the fleet, and land our pontoons, if necessary, with such other stores as we might want. It afforded, also, the advantage of using the advanced division, for the purpose of reconnoitring the country, while the rear division was coming up, without losing time; for which purpose, great part of the light battalion and rifle corps were sent forward, with the advance. That this was one of the main objects of sending forward the advance, will appear most distinctly, from the reports of General Gower to me, on each day's march, which I will hereafter read: from one of the last of which it will be seen, that if the distance and circumstance would have permitted, he would have

pushed on and reconnoitred the bridge, and occupied it, or passed the river, according to circumstance, on the evening of the 1st of July. That no difficulty could arise in reaching Reduction from Barragon, in two days, one of the points inquired into is obvious; for both the main body under myself, and the division under Colonel Mahon, did march from Barragon to Reduction in two days: my division on the 30th and 1st, Colonel Mahon's on the 1st and 2d. Had it been possible, therefore, to have assembled the army on the heights, in the course of the 28th, we should have arrived at Reduction on the 30th. Much evidence has been gone into, as to the march, the length of time occupied by it on each day, the exhausted state of the troops, and frequent halts; and as a very able and experienced officer, high in command, Sir S. Achmuty, mentioned the latter circumstance, in answer to some questions from the Court, as one of the causes of delay, and of the fatigue of the men, I should, if it had not been explained by other evidence, have felt it incumbent upon me to have called witnesses upon these points. But, after the evidence of Colonel Mahon, to which I particularly request the attention of the Court, I cannot feel it necessary. He had four 6-pounders and a howitzer; but, in some measure, to counterbalance the effect of the proportion of artillery, with his division, he had 200 seamen to assist them; and the artillery officer was so satisfied with the assistance given to the guns, as to make a report to Captain Fraser, which hardly accords with the detail given by Colonel Mahon, that they occasioned no impediment to the march, but in this Colonel Mahon cannot be mistaken. His evidence is not that of opinion; for, in answer to the prosecutor's questions, he details the number of hours and miles on each day. On the 1st he marched eight miles,

in nine hours and an half, including a halt to rest the men, in the middle of the day. The 2d, he marched before day light, and did not reach Reduction until after five o'clock, from nine to eleven miles; and on the day he left Reduction, the 5th of July, he marched about half past ten or eleven o'clock, and did not cross the bridge until dark, near five o'clock, the distance about seven miles; and stating that he speaks from experience, and he was the only person who marched that route, says, that he could not have marched from Reduction, to the Coralis, with the artillery, in one day; he particularly states, the unavoidable necessity of continued halts, from the rivulets, and the marshy banks, and the consequent delay of the artillery; he proves that every exertion was made by the seamen; and afterwards, in answer to some question put by myself, he proves, what after the above details was almost unnecessary, that these delays were occasioned by the nature of the country, and that he conceived few countries, *would have presented so many obstacles*. It will be recollected, that Sir S. Achmuty, was in the rear of my column, and that I was in the front with the guns; and therefore, like Colonel Mahon, continually obliged to halt, while the guns were crossing these obstacles. After so minute, and particular a detail, given by an officer commanding a division, and therefore not a casual observer, but paying attention to these points, I should deem it a waste of time if I made any further observation, or called any further evidence upon that subject.

The court will recollect, that it has been proved, (as I have before stated,) that I had intended to have halted at Reduction, in order to bring up Colonel Mahon's brigade, and concentrate the army. The advanced corps, as will appear from one of General Gower's reports, was to have pushed on, to reconnoitre the river on the 1st, and if it had proved practicable, to have occupied the bridge, or as far towards it as possible; but it will appear from General Gower's reports, that on his arrival beyond Reduction, which village he left to be occupied by the main body, he found the river and bridge at a greater distance

than had been reported to us ; and accordingly he halted there.

In consequence of this, I determined, as has appeared in evidence, to go forward on the morning of the 2d, and with part of General Craufurd's brigade, to reconnoitre the river and the bridge, (which was reported to be burnt) while the navy landed provisions for the troops, and also the pontoons, if our reconnoissance should prove that they were necessary. It has been proved, that orders were given on the evening of the 1st, for this reconnoitring on the 2d, and I trust, the Court will feel I could adduce no stronger proof of my not disregarding the necessary precaution of reconnoitring ; but that on the contrary, the arrangement in respect to that part of the conduct of the army, was adapted to our situation and circumstances. It would not have been prudent to have trusted small parties at any distance from the principal divisions of the army ; and the advanced division of the army, therefore, acted as a reconnoitring body to the other division, and by pushing on that corps, instead of waiting on the heights of Barragon until the whole of the army was assembled, the object of reconnoitring the country, considerably in front, was attained without delaying the advance of the whole. The halt of General Gower's division, just beyond Reduction, brought the main body up, and that circumstance affording a day at Reduction for other objects, I of course prepared to make the most important use of the time, and reconnoitre in person on the 2d. This short and plain account, the particulars of which have been proved to the Court, will, I trust, be sufficient to prove, that I neither disregarded or neglected their essential points. I will now state the motion, which led to my altering this determination. It has been proved, that the rainy period of the year was approaching, or rather arrived ; I will not call it *the rainy season*, as the rains, though frequent and heavy, are not so incessant as in the countries where they are so called. I was apprehensive of the health of the troops, if too long exposed, and most anxious to arrive in the vicinity of Buenos Ayres, where

only, I could put them under cover. An old and experienced inhabitant, one of the only three prisoners we took on our march, had, as the court have heard, stated his opinion on the 1st, before we reached Reduction, that the rains were coming on, which would have swelled the river, and possibly left us no choice, but that of a direct attack at, or in the vicinity of the bridge, where the enemy would have had a most decided advantage, from the nature of the ground, and a numerous artillery; and in the imprudence of which, the Court have heard it proved every officer in the army concurred. It has been proved that a heavy rain commenced in the night of the 1st of July, and this confirmation of the opinion given the day before, as to the weather, made me apprehensive of the consequences of any delay, even of a day, at Reduction, though for important objects; I therefore in the night determined to move to the left, and turn the head of the river, or cross some ford above the bridge; and early in the morning sent Lieutenant Colonel Bourke, to General Gower, with the orders which have been detailed, from recollection, by General Gower. Colonel Bourke, and Colonel Torrens, the latter of whom, from his very precise recollection of the very terms, in which the order was written by himself, will, I have no doubt, be considered as giving the most accurate account, if any thing turns upon the way in which they were worded.

General Gower's answer, I will now read, and hereafter produce to the court, (*Vide Letter.*)

The Court will observe, that if doubt has arisen as to the nature of the orders carried by Colonel Bourke with respect to our route, it is done away by this answer, which must be taken as expressing General Gower's understanding of them at the time. He states that he will keep the high ground on this side the Chiulo, until he could find a practicable ford, or turn the head of the river; and details his reasons for preferring this line of march; and most decidedly states that he *will not even try the Passo Chico*: and this determination was adopted after consulting with the guide, in the presence, as the Court have heard, of Colonel Bourke. It has appeared, that

immediately on the receipt of this letter, I put the main body of the army in motion; and that I shewed a particular anxiety to march without delay; and I will prove, that in consequence of this letter, and the information communicated by Colonel Bourke, I told the guide, who was, under Colonel Bourke's directions, to lead the column of march, that he was *not* to carry us to the Passo Chico, but to the *next practicable ford above it*, for the express purpose of passing the river at the same ford with the advanced corps. An inspection of the map, and the evidence which I shall produce, will completely prove, that if General Gower had not been led by some cause to alter his route, as expressed in his letter, we should have drawn nearer together in the course of the day, instead of separating. The Court will also recollect, that in conformity with this letter the order of march was immediately altered, as proved by Sir S. Achmuty; and instead of moving to the right, as I had done before, when we followed the advanced guard, we marched by the left, keeping by this movement the advanced corps on the right, and between the main body and the river, as in the preceding days. I will call Colonel Bourke, who led the column of march that day, to prove that so strong was his impression that, from the arrangement made and order of march, the columns would close nearer and not separate from each other; that when he saw General Gower inclining in a direction from us, he mentioned it to the guide, who assured him that *we should follow in the same direction as soon as we crossed the Arrojo de Messiel*; and so little did Colonel Bourke then suppose that the two divisions would separate, that he rested satisfied with this answer, and did not even report the circumstance then to me, but made, as he has stated in his former evidence, an unsuccessful attempt to move in a direction rather more to the right, which was found impracticable, and we were obliged to cross the Arrojo de Messeil at the point to which the guide was leading us. It has been proved that General Gower, at a particular part of the march, at the intersection of two roads, turned to the right and followed a body of horse directly to the river,

and across the Passo Chico ; and I think, that upon reading the above letter, looking at the map, and hearing the evidence of Colonel Bourke upon this subject, it will be impossible to impute the separation of the division of the army to *me*. It has been asked, whether General Gower had any orders to *report* any deviation of his route, or any particular circumstance on that day, or whether any steps were taken to reconnoitre the river above the bridge at the Passo Chico ? I certainly had given no particular order for reporting on that day, nor taken any particular step for reconnoitring the river, nor could I conceive it necessary. I apprehend it to be the duty of an officer commanding an advanced division under such circumstances to report. I had received, as I have before stated, reports from General Gower on the 28th, 29th, and 30th of June, and two reports on the 1st of July, though we met each other at some period of each of those days ; he even reported particular occurrences in the day, and sent sketches of his position. He had also acted on the whole of the march as commanding a reconnoitring division for the rest of the army, and was provided with troops adapted to that object. The river and passes were at too great a distance to justify sending forward any small body ; and the waiting the result of any such reconnoissance would have delayed our march, and the main object, that of crossing the river before the rain rendered it impracticable. Having, from the motives I have before stated, abandoned the first plan of approaching the bridge, I was on this march of the 2d placed in the same situation as on the preceding days, with the difference only that both divisions were making a flank movement by our left ; but the effect was the same, for the advance, as I before said, was between me and the river, but rather at a less distance than on the preceding days, and even that distance would have been lessened if General Gower had pursued the route mentioned in his own letter. I considered his division, therefore, as still acting as the reconnoitring body to the rest ; and it is obvious, that if General Gower had pursued the route mentioned in his letter, a prolongation of the march of each division on the line upon which we first set out

must have brought us in the course of the day, or at least before night, not merely within the reach of communication with each other, as on every preceding day, but actually *in contact*, and General Gower would have been supported by the main body, as intended in the orders. I must request the Court to recollect, that when Colonel Bourke was asked whether he reported to me that the direction in which the guide was leading my column would preclude my giving assistance to General Gower, his answer was, that he made no such representation, for *he did not believe that it would have been the case*. And the evidence of Colonel Bourke must have its proper weight on this subject, as he carried the order, and was with General Gower when he determined on the route he should take, and wrote the letter to me which I have read. My orders on that day were adapted to our situation, and gave General Gower a latitude necessary to enable him to precede the main body with the advance, as he had done on the march, and as it was supposed that this day would bring us to the town, he was authorized to take up a situation in the suburbs of the town, without halting for further orders, as he would naturally have done if no such latitude had been given him. A supposition that the effects of panic arising from our suddenly crossing the river, and arriving unexpectedly before the town, and an apprehension of our immediately entering it, might induce a wish on the part of the enemy to surrender, also led me to give a further latitude to General Gower, and authorize him to summon the town before my arrival with the main body, if a favourable opportunity occurred, as expressed by Colonel Torrens; but that I meant to authorize him to separate from the main body is quite impossible from the nature of the order, which was, *that he should feel his way across the river*, as expressed by Colonel Torrens, that is, reconnoitre the ford for the main body, and that I would support him with the main body, a part of the order which is stated both by General Gower and Colonel Torrens, and which is utterly inconsistent with the idea of separation, and permitting him to enter the town alone without it. The Court will find,

on referring to the evidence of Sir Samuel Achmuty, that I appeared very uneasy at hearing the firing that evening; and on Sir Samuel Achmuty stating his opinion, that if General Gower did not attempt the town, there could be no danger, whatever numbers might oppose him—I stated that I had so high an opinion of General Gower that I was persuaded he would not attempt the town without me. I have proved, I hope, to the conviction of the Court, by these observations, that I never intended that such a separation should take place; and I think it must be equally clear, from General Gower's letter to me, that I never contemplated the possibility of it. That I was not well pleased with what had passed, I think the Court will have had good reason to believe from evidence which has been given by General Gower himself. Let me now ask the Court to *whom* this separation of the army is to be imputed? Am I to be charged with not taking precaution against this during the march of General Gower? On the contrary, was it not the duty of General Gower, if any circumstances induced him to alter his route, to report it to me, and to halt until he made such a report and received my orders, or, at all events, to have apprized me of the alteration of his route, and his reasons for it? The Court will also recollect, that the alteration of route by General Gower did not arise from ignorance on his part of the situation of the main body; for though we could not distinguish the advance even from the commanding situation we occupied after crossing the Arroyo de Messié, yet it is proved, both by General Gower and others, that he not only saw the main body on the march, but actually saw us when he arrived at the Chico. I marched, as I supposed, towards the same ford, not towards the Chico, which was expressly excluded. He was on my right while we were moving to the left flank, and would have been in my front, as before, as soon as we arrived at the river, and both pointing towards Buenos Ayres, in the same relative position, therefore, as on the preceding days; and it is impossible that he could have lost the main body, as he was between me and the river, unless he had deviated from

the route stated in his letter, and turned short to the right. It is most painful to me to have been obliged to enter into this detail and make these observations. It is not my wish or inclination, and certainly has not been my practice, to impute blame to others for the purpose of defending myself; but I stand charged with too heavy a responsibility to make it possible for me to forbear stating what is necessary to my defence, though in so doing I may unfortunately call in question the conduct of others.

I will proceed with the remainder of the march of that day. We crossed the Arrojo de Messiel, and ascended the heights on the other side: and there it was that we first discovered that we had lost all traces of General Gower, although our view from that ground was very extensive. It was now three, some of the witnesses say half after three o'clock, and approaching therefore at that season of the year to the close of the evening; we were still more than six miles from the river, the range of view given by the ground, within which range we saw no trace of General Gower, made it obvious that any attempt to ascertain his position, in a country in which we could not move or send a party after the evening closed, must be fruitless. It remained, therefore, only to consider what was best to be done with reference to the main division. We could hardly hope even to reach, much less to pass the river, that night. It is doubtful whether by any exertion we could have got near it that evening. We were in the vicinity of some large farms, affording wood to dry the men and cook their victuals, and a supply of cattle, and in a very extensive range of view; only one house in sight on our line of march, at the distance of about a mile. The utmost distance we could have then marched could only have brought us to the swampy ground in the vicinity of the river, without being able to insure any accommodation to the troops. It was obvious, that whatever might be General Gower's situation, I could not hope to ascertain it that evening. While considering of the most eligible course to pursue, I was, as has been proved to the Court, joined by Sir

Samuel Achmuty, from the rear, whose opinion immediately decided mine for halting that night.

I had ordered Colonel Mahon to follow the main body; but the occurrences of the day, and uncertainty of our route the next day, made me think it more advisable to order him to halt at Reduction until I had ascertained the situation of the advance, and the best place for crossing the river.

I have thus fully and candidly stated, all the circumstances connected with the unfortunate separation of the army on the 2d, which I must ever consider as the first origin of all my misfortunes. It has been asked, whether the whole army might not have arrived in the suburbs of Buenos Ayres on the 2d. from Reduction? and some officers have given it as their opinion, that it might; but when the Court advert to the circumstances of the march of General Gower's division, which was completely a forced one, and in which General Lumley's brigade and the guns were left the latter part of the march all night near the river; that from the way in which the march had been pushed, the light battalions and rifle corps were completely exhausted; that General Lumley's brigade was still more so, and that they did not reach the suburbs until dark, and that General Gower's corps moved from a point three miles in advance of Reduction, it will even now appear very doubtful whether the bringing the whole army on the 2d into the suburbs of Buenos Ayres could have been accomplished. In what way it was accomplished by one corps, the Court has seen: I have fully stated why it was not attempted by the main body. I rely upon the candour of the Honourable Members of the Court upon this subject; satisfied that they will on this, as well as in every other instance, form their judgment upon the information I possessed, and the impression which I might fairly and naturally entertain at the time from the existing circumstances, and not judge me by the event or any consequence which ensued.

Before I quit this head I must advert to the 1st Charge; which, exclusive of the general introductory allegation of the measures pursued being ill calculated to facilitate the

conquest of Buenos Ayres, asserts, that after the Spanish commander had shewn such symptoms of a disposition to treat, as to express a desire to communicate on the subject of terms, I demanded the surrender of all the civil officers of Buenos Ayres as prisoners of war.

The first point to be considered as to this charge seems to be, whether the Spanish commander did express a desire to communicate on the subject of terms, or, at least did shew some disposition to treat; and the next, whether my instructions did not warrant the demand of the surrender of these authorities. On the first point, Major Roach must be the most competent to declare, not only the precise conversation that passed between himself and General Ellio, but more especially the tone assumed, and the temper and disposition in which the summons was received, and in which the conversation between them closed. Referring then to the evidence of Major Roach, it seems quite impossible not to see, that not only no wish or desire was expressed to communicate on the subject of terms (it must be understood of surrendering the town) but that the only disposition manifested in that respect by General Ellio, during the whole conversation with Major Roach, was undisguisedly and unequivocally a determination *not* to surrender, nor even to allow Major Roach to talk of terms. I was also directed by my instructions carefully to remove all those who were principally instrumental in promoting the insurrection against General Beresford, and either to send them to Europe, or to place them in some situation where their machinations would be no longer dangerous. These civil magistrates of Buenos Ayres, the Court have heard, *were* the instigators of the insurrection against General Beresford and his troops; and the violation of their capitulation could be no otherwise rendered not dangerous, than by their persons being either removed from the province, or kept secured within it. I was also to respect the persons of the inhabitants, and to conciliate their good will. The choice that presented itself was, either to promise to respect the persons of the inhabitants generally, and afterwards arrest the chief magistrates, or openly to demand them in the first instance. Every principle of

honor and good faith was decidedly in favour of the latter alternative. It cannot be necessary for me to say more on this charge.

I will now proceed to the plan of, and preparation for, the attack.

On my joining General Gower on the 3d, I found him not in the position to which he had been directed to proceed, namely the westward suburbs, so as to communicate with the shipping, which had always been my object, but on the side opposite to the Plata, which position he had taken up immediately after the action of the 2d. As I found him so posted, and he had been in possession of the ground the day before, it was natural that I should ask whether he had formed any idea about the attack of the town; and the plan ultimately adopted was presented to me, a circumstance proved not from any question of mine, for I should certainly not have permitted myself to have alluded to General Gower's having any such share in it, but arising out of questions from the Court to General Gower, and details of the other witnesses. I arrived at the Coral de Miserala about three o'clock. It rained in torrents, and as the Court will recollect is dark at five, or before five o'clock. Upon this plan being proposed to me, I spent the rest of the evening in considering it, and examining some persons supposed to be capable of giving us correct information as to the state of the town; and I finally determined to adopt it, intending then that it should be carried into execution the next morning.

The Court have heard some of the general reasons, which operated upon my mind to induce me to adopt it, in the second letter which was read at the commencement of the evidence for the prosecution; and to which letter I beg permission to refer the Court, and request their attention to it; as I cannot but think that the publication of it, or at least extracts from it, with the other letter, would have obviated many of the remarks which have been made upon this transaction. But it is proper now that I should rather more particularly detail the motives which

induced me to adopt this, instead of pursuing my original plan of putting my left upon the Plata, landing the heavy artillery, stores, and provisions, and attacking the town from that side. There appeared to be three modes of attacking the town; by cutting off its supplies, bombardment and battery, and assault. The first, notwithstanding the opinions which have been given to the contrary, I did not think practicable at the time, nor do I now; and I think the very distinct and forcible reasons given by Colonel Bourke and General Gower against it, must have satisfied the Court upon that point: but independent of the circumstances stated by Colonel Bourke, it is obvious that it would have occupied longer time, been attended with more exposure of the troops to weather, created greater difficulties with respect to supply of provisions, and engaged them in a duty more harassing perhaps than any other, from the superiority of the enemy in that sort of irregular force, which, though unable to meet us in the field, were best calculated by their numbers and perseverance (of which we had abundant proofs) to have kept our troops under constant annoyance. All these were very powerful objections at that period of the year. When all these circumstances are considered, it will hardly be said that I was guilty even of an error in judgment, in laying aside all thoughts of that mode of attack. The next was certainly the most natural and obvious course to pursue, and was therefore that to which my views had always been directed, but it was also open to many objections. Among which were the difficulty and delay which might occur in landing the heavy guns and stores and erecting batteries in the weather, which has been described by Admiral Murray. The rain was then falling in torrents, and the occasional interruption of communication with the fleet, and continued exposure of the men at that time of the year; in addition to this the nature of the town, and the construction of the buildings were such as to obviate many of the most powerful and rapid effects of such a mode of attack. All who have given evidence concur in opinion, that it would have been very

difficult, if not impossible to burn the town, at least no great effect of the sort, which is generally the most effectual consequence of a bombardment, would have resulted from it.

The effect of our heaviest guns, 24-pounders, upon the houses at Monte Video, had shewn that even batteries would not have the same effects as upon houses of an ordinary construction, and at all events must have been slow in their operation, nor did the vicinity of the town afford one commanding position; for the Tauros and Residencia though eligible as posts to attack from, were not commanding positions from which the centre or body of the town could be annoyed; in addition to all these reasons that mode of attack, to be successful, must have been attended with a great destruction of the property as well as lives of the inhabitants, and was therefore objectionable, as tending to increase the hostility of the inhabitants towards us, which was the most important of all the considerations to which I had to attend, with respect either to the letter or spirit of my instructions, and the ultimate object in the view of government, of conciliating the country. As it was obvious that unless the hostility of the inhabitants could in some degree be lessened, no force which this country was able to spare for so distant an object could procure, or at least maintain any footing which would be valuable either in a political or commercial point of view.

To the last mode that of assault, there did not appear then, nor have I heard stated, or given in evidence any objection but that of the possibility of its failure: for in its effects if it did succeed, it does not seem difficult to prove that it was much preferable to the second. Presuming it for the sake of argument to be successful, it was obviously preferable so far as the troops were concerned; for though it might be attended with some loss, it would the moment it succeeded afford the means of comfortable accommodation, and prevent all the losses and diminution of the effective strength of the army from the fatigue and sickness attending on protracted operations at that season of the

year. I knew that the inhabitants would in some measure assist in the defence, and from the nature and construction of the squares of houses, and their flat-roofs, was aware that they would be occupied ; but from all the information I obtained from those immediately with the army, and the prisoners, two Spanish officers, examined as the Court have heard, on the morning of the 4th, I was led to suppose that the Spanish *troops* would act in the streets as had been determined by Liniers, in moveable columns, and behind such traverses and defences as they could erect in the vicinity of the fort and great square in the centre of the town. An attack therefore which brought us in contact immediately with the Spanish troops would necessarily be the least annoying of all others to the inhabitants. The capture of the place would in that case have been the consequence of the defeat and slaughter of the soldiers with whom only the contest had been. In the other it would have arisen from the protracted hardships and destruction of property and lives of the inhabitants. It must be admitted, that in an assault with any troops, however well disciplined, some injury would be done to the inhabitants, but it cannot be contended that in a well regulated army, such injuries could bear any the most distant proportion to those which would arise from bombardment. With reference therefore either to the army or the town, I still think that the assault had the preference over the other plan, presuming as I said before, upon its success, upon which I will therefore now make a few observations, considering it, as the Honourable Members of the Court will do hereafter, with reference to the fair probabilities at the time when it was adopted, and not according to the unfortunate result.

The first point to consider, in that view, was the probable resistance ; and the next, the mode of attack best adapted to overcome that resistance. I have before stated, that it was understood the tops of the houses would be occupied, and from the known hostility of the inhabitants, it was supposed that many of them would take part in the

defence, and that their post would be on the roofs of the houses, while the Spanish troops offered a resistance in the streets, and defended the fort ; and such defences as they might have prepared in the streets of the town. We, therefore, looked for a vigorous resistance : but I will ask the court, and every individual member of it, whether from any experience in modern times, from any thing handed down to us in military history, since the modern system of warfare, and the use of fire-arms have prevailed, or even from any information we had received, or observation we had made, as to the hostility of the inhabitants, any thing but the actual result, could lead us to form a just estimate of the resistance made. A multitude of instances might be mentioned, in which a certain proportion of the young and active population has increased the strength, but in which the general population has always impeded, instead of assisting the efforts of the defending army. Not one can, I will venture to say, be produced like the present, in which it is no exaggeration to say, that every male inhabitant, whether free or slave, fought with a resolution and perseverance which could not have been expected, even from the enthusiasm of religion and national prejudice, or the most inveterate and implacable hostility. I am ready to confess, that I had not contemplated the possibility of such a resistance, so conducted by the whole population ; nor do I believe it was supposed or foreseen by others. I will not resort to any of the common place observations, however forcible their application might be upon opinions formed after the result ; but whatever shades of difference of opinion there might have been among the General Officers, or those commanding in the attack, or those more immediately about myself, and to whom the details were given the preceding day, as to this plan, compared with other modes of attack, I think, I may assume, from what passed on the 4th, and from the evidence which has been given, that no one of them looked forward to the resistance we encountered, or the consequences which ensued ; that no one of them in fact, had in contemplation the possible failure of the at-

tack. Whether the General Officers attending, considered themselves as consulted or not, and whether under the circumstances in which they were called together; and after my observations, as to feeling myself compelled to adopt it, from circumstances against my judgment; and the discussion which subsequently took place, as to the alteration of the hour of the attack, and General Lumley's questions on the subject of the plan, and the explanation by General Gower at the table, of the details by referring to the map (as is described in the evidence) they either ought, or were at liberty, to state any strong feeling they might have upon the subject, is not for me to determine. I will, hereafter, read to the Court my circular letter to the Brigadier Generals; upon which I cannot but remark, that when it was produced, and laid upon the table by General Craufurd, no sort of notice was taken of it by the Judge Advocate; nor did he direct it to be read, though stated to be circular and official, and coming with the orders: although the Judge Advocate commenced the prosecution, by stating it to be his duty, as well as his wish, to produce all the evidence, whether operating favourably or otherwise to me. Whatever may be the opinion of the Court, as to the situation of the Brigadier Generals at the meeting at head quarters, I think it is clear that any General Officer, who had contemplated an unsuccessful result, of such an attack, would either publicly or privately to me, have submitted his opinion, or have failed most criminally in his duty. No such opinion was given me, for the Court will see, upon an accurate examination, even of Colonel Pack's evidence, that I could not collect even from what was stated between him and me, that he thought unfavourably of the plan, as his objections were confined to a want of some implements, for breaking open the houses, for which I ordered immediately every possible search to be made: having stated thus fully the nature of the idea, I might probably entertain at the time of the resistance to be expected, I come now to the mode of attack. The object was to pass through the town, as rapidly as possible, so as to come

in contact with the Spanish soldiers, considering the inhabitants as less worthy of attention. The plan also avoided the centre defences ; and the columns were not to persevere, in spite of all obstacles, on their particular lines of attack ; but to incline to the flanks, and gain stations, or rather the houses next the river, and thus occupy two lines on the flanks of the main defences of the enemy : this is obvious from the orders themselves, the distribution of the troops, which were so divided as to occupy all but the four centre streets, and the answer given to General Lumley's question, publicly, at the meeting of all the officers. I particularly request the attention of the Court to this, because it will be seen that the most fatal consequences, if not the whole of the unfortunate result of that day, arose from a neglect of these orders in the columns, in which strict attention to them was most important. The men were to enter unloaded, and proceed as rapidly as possible, and not to fire on any account ; and this is stated pointedly, in one of the charges, as an offence. I hardly know whether it is necessary to defend myself on this head : It is a point, as a general military one, upon which differences of opinion may and do exist. The Court has seen that different opinions have been entertained by the witnesses ; but one of the witnesses, Sir S. Achmuty, who gives his opinion in favour of entering the town unloaded, has stated a fact, not in support of that opinion, but incidentally, which a little confirms the propriety of it ; namely, that the danger of the head of his column was increased by the firing of his own column from the rear. The reasons for the order in this instance were, that the fire could be of no use against the people on the roofs of the houses, who were behind parapets, and completely concealed, except at the moment of firing ; and the main object, therefore, was to pass on as rapidly as possible, until the columns encountered those of the enemy ; and neither run the hazard of any delay from the

men using their fire, which is difficult to prevent, or of any mischief arising from the columns crossing each other before it was sufficiently light to distinguish each other: I cannot, therefore, take blame to myself for this order, and should not have adverted to it at all, if it had not been so pointedly mentioned in the charge.

Of the circumstance of General Gower's having taken the flints from the companies of the 88th, I had no knowledge; but believe it arose from something which had occurred while that regiment was under General Gower's command on the march.

I have stated the motives which led me to adopt the plan of assault; to which, after the evidence which has been given, I may now be allowed to add one, which, in a case of this sort, might, I trust, fairly, and actually did, operate upon my mind;—that of its being proposed by an officer whose opinion could not but be entitled to weight.

The next point to which I will advert is, that of the orders given upon the subject of the situation in which I was to be found, for the purpose of receiving reports; and whether that was communicated to the generals; and in regard to the directions, that, after occupying the line of attack, if they gained their points, they should wait for further orders. In explaining this, I must further observe, that no particular situation was assigned in the orders from myself and the second in command; that head-quarters were not changed; and that the reserve was, in the orders, posted about 500 or 600 yards in front of head-quarters, upon an open space, which must be crossed by any person going to head-quarters. I trust I shall not be thought capable of acting so unworthy a part as that of exonerating myself by throwing blame upon others; I have acted upon a very different principle since my return, whatever I have felt or thought as to the execution of any parts of

the attack : I have steadily refused to listen to any suggestions of defending myself by involving others. But in cases where I am bound to account for my conduct, and cannot do so but by stating that which may ultimately have a tendency to impute blame to others, I trust I shall not be accused of deviating from the line of conduct I have adopted, in stating the motive which either operated upon me to act in any particular manner, or occasioned my neglecting some details, which, in strictness, it might be my duty to see attended to : with reference to these details, I can with truth state, that having adopted the plan of another, I should not have thought it fair or proper towards him (after having approved of it with a very little alteration, to which it is not my intention to allude) not to have permitted him to take a principal share in that which he had suggested, and which, from presenting it in such detail, he, of course, had fully conducted. Accordingly the Court has heard, that when the officers were assembled, I stated, in a few words, my motives for adopting the plan of assault, and referred them to General Gower for the details ; and the officers accordingly surrounded his table, upon which he had got the map ; and until long after my arrival in England, I had always understood that General Gower's reason for advising me to stay in the centre, instead of taking the left with Sir S. Achmuty, and giving him the right, according to my original intention (and which I could prove, if, after the evidence of Sir S. Achmuty and others, as to the propriety of taking a central position, it were necessary), was, that I might receive the reports of the generals ; which I always understood and conceived had, with our position, been explained to them upon the map, on the 4th. Upon this subject there seems to have been some fatal misunderstanding. I certainly expected these reports, in the full belief that they had

been ordered, and the place pointed out to which they were to be sent.

It rather appears, from General Gower's evidence, that he cannot state positively that such orders were given; but conceived it to be a point of military duty, and the course of the service, that they should, in this situation, have been reported.

Another point remains for me to notice up to the evening of the 4th, that of not having reconnoitered the town. Upon this I can only state, candidly and fairly, that the nature of the attack did not seem to me to render it necessary so to do, as no one object was to be gained, and no alteration, either in the details or execution of the plan, could arise from any reconnoissance I could have made. The only open spot from which any thing could be seen was, the place where I actually was.

The attack was founded upon a plan of the town, and the information of those who were acquainted with it, and were with me at head-quarters: and no situation, either to the right or left, or in any direction, in fact, not only on any part of our line, but at any distance from either of our flanks, could afford any further view, but of the houses immediately opposite with the gardens and orchards. This I could see; and, as far as any extent of view was concerned, the Coral was the only spot in which the view was not bounded by the squares, either of scattered houses or strong hedges, which intercepted all view whatever.

There was no position to reconnoitre, no ground to examine, with a view to the disposition of our own force, or attacking that of the enemy. I could find no point to which I could have gone with any force to have reconnoitred any part of the line of attack, or have seen more than could be seen from the Coralis.

I have now stated at length all the motives by which I was led to adopt this plan, and I believe commented upon all the points necessary for me to observe upon, up to the

evening of the 4th, and will now shortly advert to the first charge, and then proceed in the order of events to the day of attack.

In commenting upon the events of this day, which the prosecutor has, in a question to one of the witnesses (a singular and unusual period for the introduction of a phrase implying so strong a comment), called extraordinary, I must earnestly request the Court, accurately to examine the evidence as applied to the situation in which I actually was at the time, and in which I might, under all the circumstances, and actually did, suppose the attacking columns to be; and also the evidence which is founded upon the unfortunate result; and what ought to have been my conduct, had I known, or even suspected, the situation of some of those columns.

On the morning of the 5th, I proceeded to the centre, to the ground occupied by the artillery, and the attacks commenced as the Court have heard before, or about day-break. I naturally waited some time, expecting to receive reports from some of the attacking columns: not having any reports before nine o'clock, I ordered the carabineers, and part of the dismounted 9th light dragoons, about 500 men, to proceed with two guns, from their advanced position in the town, down the centre streets, hoping by this movement to produce a diversion in favor of the attacking columns, and to enable them to open a communication before their return. I had dispatched Captain Foster, one of my aid de camps, to endeavour to procure intelligence. My staff were employed in various directions, endeavouring to ascertain what was the result of the attacks; and upon the return of the carabineers, about half-past ten, after their repulse, and taking up a position in the town, in advance of the one they had at first occupied, I again repeatedly dispatched Captain Foster, an officer of long service and experience, into the town, with directions to endeavour to ascertain

the situation of the attacks, and open a communication to either flank ; anxiously and momentarily expecting, in the meantime, accounts from some of these columns ; but certainly never entertaining the slightest apprehension of what had actually taken place on two points of the attack, or the danger which threatened another. It is not my intention to enter into any detailed comments upon all the attacks ; but I must request the very serious and particular attention of the Court to some observations upon the most important of them ; and must also recall to their recollections some general observations upon the nature and plan of the attack, and the orders for it ; with the explanation given by General Gower, in answer to General Lumley's question. I anxiously request the attention of the Court to this part of the case, because it is most important, indeed almost the only really important part of the case for your consideration in a military point of view ; and still more, as, from an implied and distant insinuation in the charge, conveyed under the words "*personal exertion*," (which have been so often repeated, and sometimes with such peculiar emphasis, in the course of the trial), it most deeply affects my personal character and conduct. I also request the particular attention of the Court to it, because I think I shall clearly establish, that the charge preferred against me, of not co-operating with, or supporting, the different divisions engaged, and the consequences stated in the charge, of their surrendering for want of such aid and support, is completely founded on a misconception of the nature of the case, of the plan of attack, and of the relative situations of myself as Commander in Chief, and the officers leading the different columns. I think I shall prove that the third charge is founded on a false assumption of that which had no existence ; and is not applicable to the nature of the case ; and that it falls short in not stating the only circumstances upon which such a charge,

with reference to the nature of the assault on the town, could be founded. This view of the case, which I feel satisfied I shall shew to the Court to be the only just and proper one, it is obvious, from the course of examination, has never once occurred to the prosecutor. It certainly did not occur to him, when the charges were preferred against me, or they would have been differently framed; and I think the Court will see, that it has not occurred to him since. In order to explain this mode of considering the case, I must call the attention of the Court to the nature and arrangement of the plan. The attack, as the Court will have seen, was to avoid the centre streets; and the directions, therefore, were not to persevere in spite of obstacles, but to pursue the main object, that of getting to the vicinity of the river, or as far in advance towards it as possible. The columns of the left wing, therefore, were, in case of meeting with obstacles, to incline and take the next practicable streets to the left of those in which they met with obstacles, and the columns of the right wing, the streets to the right: the effect of which necessarily was to avoid attacking the centre and main defences, if they presented formidable obstacles to our advance, and to establish a line of stations on the houses or commanding buildings near the river, on the flanks of the main defences of the enemy; which stations would, if the orders had been pursued, have occupied the town on each flank of the defences of the enemy, approaching nearer, or being further from the centre, in proportion as any obstacles in the streets might make it necessary to incline more or less towards the flanks: and these attacks must necessarily have communicated with, and supported each other. And, in fact, if the buildings could have been occupied in the manner pointed out in orders, would have been in actual contact with each, with no other intervals than the breadth of the intersecting streets.

The Court will observe, by referring to the orders, that

four regiments on the left, under Sir Samuel Achmuty and General Lumley, namely the 87th, 5th, 36th, and 88th, were divided into wings, constituting, therefore, eight different columns of attack, exclusive of the 38th, which was to attack the Toros from the rear; and the brigade under General Craufurd, and the 45th under Colonel Guard, were divided, as the Court have heard, into four columns of attack; which, by the division of Colonel Pack's corps, became five: and if the Court will refer to the plan of the town, they will find, that, with the exception of the two streets to the right and left of the centre of the square of Buenos Ayres, which were purposely avoided, all the streets were occupied by our columns. The orders distinctly stated, that each division was to go, *if possible* (which term was explained, as has been stated in the answer to General Lumley's question, given in the presence of all the officers), straight down the street before it, until it arrived at the last square of houses near the River Plata; of which the columns were to possess themselves, and on the tops of which they were to form.

The Court will recollect, that the sides of the squares of houses are 140 yards; and it is therefore obvious, that, if the buildings and houses had been occupied according to orders, the different divisions would have been not only within reach of communication and support, but actually, as I have before stated, in contact with each other. It is perfectly clear, therefore, that they were to look to each other for co-operation and support. Let me now consider the supposition, or rather assumption, in the third charge, that the different divisions engaged in the attack were to look to the centre, or the reserve, for co-operation, aid, and support; for upon this assumption the charge, and almost all the evidence, is founded. If this assumption is not warranted either by the orders or the circumstances, the third charge is founded, as I have before suggested, on a complete misconception of the

case. To ascertain this point, I must request the Court to look to the distribution of the force under my command, and the comparative strength and relative positions of the different divisions, both in attack and in the centre, and in the reserve. There were fourteen divisions of attack: the 38th regiment entire: the others consisting of wings of regiments, including (with the exception of a company of the 88th, left at head-quarters to guard the hospital and prisoners) all the infantry of the army: in the centre, advanced into the town, were the carabineers and part of the 9th light dragoons, consisting of about 600 men; 250 of the carabineers armed with the old carbines. With myself at the Coral, and with the artillery, a reserve not exceeding 150 of the dismounted 9th Light Dragoons, and about 30 of the 17th Light Dragoons mounted, was it possible with this force to have co-operated with, or supported, all the attacks, could it have been divided so as to have supported with any effect each wing: could it, in fact, if divided, or even if united, have effectually co-operated with, or supported, the left columns, by any attack through the town. The attack made by the carabineers and the 9th light dragoons from the centre, proves, that we could not have penetrated through the town. Could any of the officers commanding divisions of the attack, and seeing this distribution of the force in the orders, have at all looked to the centre or reserve for co-operation, unless particularly called on for support, and unless the necessity of its being given was supported by those who required it? Was it not obvious, that they moved and acted in the attack in immediate communication with each other; and that the object was to form a connected line of station on the houses and buildings near the Plata, mutually communicating with and supporting each other, and occupying the rear line of the town on each flank of the centre defences of the enemy. I will now proceed to apply these observations

to the divisions which surrendered, and whose surrender, for want of aid and support, is imputed to me as a crime; with what justice will be for the Court hereafter to determine. The Court will find it proved, by the evidence of Lieutenant Colonels Pack and Cadogan, that each of their divisions turned to the left, instead of their right. General Craufurd also appears to have turned to his left, and advanced, as he stated, towards the fort: and, if I do not mistake the evidence of Colonel Duff and Major Vandeleur, they seem to have acted in a similar manner on the left; but the evidence on the subject is not very precise. It is not a little remarkable, that it was not until they approached close to the centre defence of the town, that they encountered the formidable opposition which has been described, or sustained any serious loss: and it is obvious, that in this deviation from the intention and spirit of the orders, as explained in presence of the officers in answer to General Lumley's question, the corps, so engaged, lost the support of the columns on their flanks, became entangled in the obstacles they were directed to avoid, and were ultimately obliged to surrender. It is also necessary, that the Court should observe, that those corps of the left wing, which made no such deviation, preserved their connection with each other, and ultimately finding the obstacles so formidable, and the resistance so much greater than had been foreseen, they retired to the left flank, and took post at the Toros. Colonels Pack and Cadogan both state, that having found no opposition as they proceeded, until they came within sight of the river, they turned to look for the enemy, is the expression of one of them, moving directly on towards the great square, which it was never intended they should approach; and in this attempt they suffered the dreadful loss which has been stated: but even although they must have considered themselves as having encountered an obstacle, against which it was impossible to hope to be able to persevere with any chance of success,

instead of moving towards the right, as stated in the orders, and explained by the answers given publickly to General Lumley, they persevere and fall a sacrifice.

Having applied these observations generally to Colonel Cadogan, as well as Colonel Pack and General Craufurd, I think it but justice to remark, that Colonel Cadogan did not command a column under the orders, but was directed to lead a respective division, by Colonel Pack; and must therefore be considered as acting under the immediate orders of a superior officer; and the persevering resolution and gallantry with which he held out, until he was compelled by overpowering numbers to surrender, must for ever prevent the misfortunes of that day from producing any recollection, as far as he was concerned, but such as must be gratifying to a soldier. General Craufurd also states, that upon arriving at the banks of the Plata, and opening the bastion of the fort, he turned to the left, and advanced towards the fort: and when he had so done, instead of occupying buildings or the tops of the squares of houses along the line of the river, which would have connected him with the Residencia, and enabled him at any time to communicate or retreat, more particularly if the divisions under Colonels Cadogan and Pack had also occupied buildings on the same line, he throws not only his own division, but that of Colonel Guard, and part of Colonel Pack's, into one building at the distance of one square from the river, and there remains to wait for support. Let me now ask the Court to examine the order, the plan of attack, and the evidence, and see on what grounds it was, that he was led to pursue this course: did it originate either in the letter, or spirit of the orders: on the contrary, was it not a direct deviation from both? On arriving at the banks of the Plata, he moves to the left, unites the detachments of the other divisions with his own, and throws the whole into one building, instead of keeping the divi-

sions separate, and, according to the orders, occupying the roofs of the houses or buildings near the Plata. I must also request the Court to observe, that this building was deliberately occupied, at between seven and eight o'clock in the morning, not under fire of the enemy, and as an immediate protection to the troops, as was the case in one or two of the other instances, and not from any difficulty in occupying other buildings, as directed by the order; for it appears that no such attempt was made, but was taken possession of as a post to maintain. Part of the 45th, as the Court have heard, went to the Residencia, though Colonel Guard came back with a strong company, and may therefore be fairly considered as bringing a column for one of the streets; and if the order had been pursued of retiring from the obstacles, Colonels Pack and Cadogan's divisions would, in retiring from the centre, have approached more towards the Residencia, and, by a correspondent movement, pushed General Craufurd's also to the right, and placed the several corps in such relative position as would have necessarily produced the effect intended by the plan and orders, of their mutually communicating and co-operating with and supporting each other, which would have secured, at any time, a retreat upon the flank. Instead of pursuing, in this respect, the spirit of the orders, or the letter of them, still less the explanation of them by General Gower, Brigadier-General Craufurd throws himself into a post close to the defences of the enemy, waiting, as he says, for support, and makes no attempt, although not surrounded, or even seriously attacked, for some hours after he took possession of the post, to establish or keep open any communication either with Colonel Cadogan or the Residencia, although he knew, from Colonel Pack, that Colonel Cadogan must be in momentary danger; and from Colonel Guard, that the Residencia was occupied by our troops. In what part of the orders is it to be found, that the support

so often alluded to was to be given? from what part of them was it to be presumed that it was promised, or was to be expected, or could be given? If I had known he was in danger (upon which I will observe hereafter), whatever might have been the original plan, or whether that danger had originated in any deviation from orders or not, I admit most fully that it would have been my duty to have moved, with every man I could collect, to his support: but the real question is, whether it was my duty to have known that he had acted contrary to the orders, or was compelled by circumstances so to act, and had taken such a post? When I state so strongly these deviations from orders, I beg I may not be supposed by the Court to insist that General Craufurd may not have been compelled by circumstances to deviate from the orders; but if that was the case, he must have been aware that it was peculiarly necessary that I should be apprised of these circumstances, to enable me to decide upon the steps proper to be taken, in consequence of the impossibility of carrying the plan into effect in that flank. The resistance opposed on that flank may have made it impracticable to carry the orders into complete execution, and he might exercise a sound military discretion in occupying a post near to the centre defences of the enemy, for the purpose of attracting the attention of a part of their force; but ought he not, when he occupied this place, to have immediately ascertained what were his means, either of maintaining it or retreating from it; and when he found, as of course he must, that it was not tenable for any length of time, and that the entrance was too narrow to admit of forcing a retreat if the enemy collected and surrounded him, to have reported to me this unavoidable deviation from orders, and his perilous situation. It is obvious, that, for some hours after entering it, he could, by means even of Colonel Guard's detachment, have much more easily opened a communication with me, than I could

with him ; but if he had found that such communication could not be opened, and that he had no means of apprising me of his situation, ought he not then to have secured the means of retreat ? I earnestly intreat the attention of the Court to these observations, as constituting the real point for your deliberation, with reference to the great features of the third charge ; for however a false confidence, as to the success of the attacks, or a momentary expectation of receiving reports, may have led me to permit very precious time to elapse before I took steps to communicate with the flanks, and with no other parts could I, as I will shew hereafter, have communicated. On finding that no reports arrived, it cannot be imputed to me as a crime that I did not, either personally or otherwise, support the different divisions engaged in the attack, and that I thereby permitted them to surrender, unless it can be shewn that I had promised support and failed to give it ; that the plan was founded upon it, and I neglected to perform my part in the plan ; or that I knew that support was wanted, and omitted, either personally or otherwise, to afford it ; or that I necessarily ought to have known it, and failed in proper exertion either to give or send it. Still less ought I to suffer for failures occasioned by others, or be subject to imputations from those who have fallen a sacrifice to their own deviation from orders, or want of caution, but who are, nevertheless, as the Court will have seen, been the most forward to make me the object of attack, and my conduct towards them the subject of complaint. I will now return to the centre, and will request the Court to advert to the number and description of the force I had with me, as a complete proof that the plan was not formed, nor could, by any person who knew the details of the army, and the strength of the corps of which it consisted, be supposed to be founded upon any principle of co-operation or support from the centre. The centre

was occupied by the least effective troops in the army, and the force left there could hardly be considered as more than equal to ensuring the safety of the guns, the hospital, and prisoners; and opposing a resistance to any attempt of the enemy to force their way out of the centre of the town, in consequence of the flank attacks, which (as Captain Fraser has stated) we apprehended would be the probable effect of those attacks. Consider this in another point of view:—If the flower of the army, penetrating in parallel lines in streets only 140 yards from each other, and therefore mutually within the reach of supporting each other, could not maintain their ground, or make any impression, what was to be expected from the whole disposable force of 150 dismounted dragoons at the Coral, and about 550 or 600 advanced in the centre of the town. Even if I had considered the latter as disposable, for it is impossible to reckon the several scattered detachments, extending along the whole line at distant intervals, and not even in sight, or returned to the Adjutant-General on that day as disposable; it is clear, that the columns of attack would have less difficulty in communicating and resorting to me, than I should have in sending to them. These corps were stronger, particularly General Craufurd's, which consisted of the best troops in the army: they had also, without meeting with any resistance, passed over and knew the ground; and General Craufurd had with him an experienced officer, well acquainted with the whole town. General Gower states, and I certainly considered, that all the brigadiers knew where I was stationed, and that they were to report. General Craufurd, at all events, is proved, by his own evidence, to have known where I was; and upon such an extraordinary deviation from the plan of attack, and occupying a post which was not tenable, and precluded a retreat, ought he not (whatever had been the

orders, if any had been given upon that subject) to have immediately communicated his situation to me, and asked for support, or orders? If I had then refused or neglected to send it, if I had not instantly put myself at the head of every man I could collect, and attempted, at the expense of any sacrifice, to give him support, the Brigadier-General might then have been justified in deliberately charging me with ABANDONING him; but, unless I have both totally misconceived the plan of attack, the object and spirit, and even letter of the orders, and our relative situations, it would have been both more decorous and more prudent in a witness, standing in the situation of giving evidence to exculpate himself, in which situation he and some others have stood, to have avoided giving, at the commencement of his evidence, so strong a proof of personal feeling upon the subject, by making the charge against his general so injurious, and, as I trust I shall prove it to the Court, so unfounded. I am proud to feel and know, that I have not deserved it; for whatever I may now have been compelled, by this attempt to impeach my character, to state in my defence, and whatever I may have felt upon this subject, immediately after the transaction, I have most cautiously abstained, upon principles both of honour and feeling, from attempting to exculpate myself at the expense of others; though I am well aware that I might, by so doing, have had no difficulty, at least in diverting much of the popular clamour which has been directed against myself;—a sentiment I have always disdained to entertain, or act upon.

To return, however, from this digression, which, I hope, the Court will forgive, and attribute to the feelings which could not but be excited by the occasion:—

The Court has heard that, after the unsuccessful attempt of the 9th Light Dragoons, and the Carabineers,

and afterwards of Captain Foster, either to open a communication or ascertain the situation of the attacking columns, a report was brought to the centre, about one o'clock, that the colours of the fort were struck; and Colonel Torrens was sent down to ascertain the fact; and while he was absent, I rode to Mr. White's house (the absence alluded to by General Gower), in the full conviction (as I could prove, if it was necessary), that the town had surrendered. I mention this circumstance (and beg also to call the recollection of the Court to the evidence of both General Craufurd and Colonel Pack on that head, who both state, that when the first flag of truce came to them about that period, they were satisfied that it was a flag to surrender the town), for the purpose of shewing the general impression entertained at that moment as to the success of the attack; and as much more conclusive in proving the feelings entertained upon the subject at the time, than all the evidence which has now, after the result, been given, or which now could be given.

I call the recollection of the Court to this evidence, as completely confirming that which has been given upon this head, when we returned to head-quarters; and to prove, beyond all doubt, that it was the general feeling at the time. If General Craufurd, who had felt obliged to throw himself into the St. Domingo Convent, and Colonel Pack, who had suffered so severely in his approach to the centre defences of the town, and had found it impossible to make any impression upon them, entertained that idea, and thought that the possession of posts so close to the centre of the town, and the other attacks, had produced such an impression upon the enemy, may not I, at a greater distance, with no suspicion of any disaster, and not aware of the desperate nature of the resistance, be allowed, in common candour, to have entertained the same impression? And can it be said, that with an army

from whose exertions every thing might be expected, and not contemplating the possibility of such a defence, I was actuated by a blind and infatuated confidence? Is it the first instance in our military history, in which the resistance of an enemy has been under-rated, and the efforts of our troops over-rated? I need not mention only the attacks, by Lord Nelson, of Teneriffe, and of the gun-boats off Boulogne; which I select as a proof, that even the transcendant talent, intuitive foresight, and consummate prudence, of the greatest commander recorded in our history, were not always able to avoid the consequences of a miscalculation in this respect. I ask only the candid and liberal allowance of the Court upon this head; and that they will, in interpreting my conduct on that day, give me the benefit of the motives which might fairly operate, and which did actually operate, upon my mind.

Immediately on the return of Colonel Torrens, I proposed to open a communication with the flanks, and sent Major Costley to the right, and immediately afterwards Captain Whittingham to the left: with the latter I sent a party, which it was supposed would enable him to ascertain the situation of the columns on that flank. I may be asked, why I did not also send another detachment to the right? I will candidly state the reason; I was unwilling to withdraw the carabineers and 9th from the centre, and still more to detach from the very small party at the Coral, and leave the guns not sufficiently protected: but more than all these considerations, which certainly would have immediately given way to any suspicion of the danger of the right, I was actuated by a confidence that the right was safe, and a much stronger anxiety to know the situation of the left. I think that I can satisfy the Court that these impressions, as to the comparative situation of the right and left, were, at the time, such as I could not but form from the circumstances; intreating the

Court to bear in mind the confidence which I and others still entertained as to the success of the attack ; or, at all events, the absence of all suspicion that any mischance had happened.

The Court will recollect that we had distinguished (as late in the day as any observation could be made, the weather being, as has been stated, thick and hazy), that two commanding buildings on the right were in our possession ; and as we could not distinguish the intermediate houses, and knew that the force on that side had been divided into four columns, I naturally concluded, that the interval was occupied by some of the columns, and that they necessarily were in a condition to communicate and co-operate with, and support each other ; and I considered that which proved to be St. Domingo church as the nearest part of the line occupied by our troops towards the centre ; and from that building, as has been proved, we saw our men firing as long as we could distinguish objects in the town. On the left, where there were also high buildings between the fort and the Toros, we saw no flag but that on the Toros ; although eight columns, besides the 38th, had advanced in that direction. If, therefore, I had suspected any serious failure, I should have unavoidably looked to the left, as the place where it had happened ; and as that was, from its being the point of communication with the shipping, the most important flank, I have no hesitation in avowing (and I think, after what I have stated, the Court will feel that it would have been the natural course to pursue) that, if an impatience at not hearing any intelligence, or the not being able to open any communication, had induced me to leave the centre before any reports arrived there ; or if it had occurred to myself or others, that a great effort was to be made, and what force we had was to be assembled, and I was to put myself at the head of it, to endeavour to restore the fortunes of the day, I should most inevitably

have taken the wrong direction, and gone to the left, instead of the right, in a full conviction, from seeing the two flags, and knowing that the number of squares of houses on that side were less than on the other side of the town, that the attack had succeeded on our right; and that we had occupied the line on the enemy's left flank, but had failed on the other side. The return of Captain Whittingham proved, that the left was well posted, though the attacks had failed; and that Sir Samuel Achmuty recommended me to go to the left, but not until I was satisfied as to the right. It was too late that evening to attempt any communication with the right; and I, therefore, resolved not to proceed to the left, until I had ascertained the situation of the right, and brought up Colonel Mahon's column; and which (as has been proved to the Court) was the first object of attention in the morning: and though it appeared, in answer to the question of the Judge Advocate, that I did allow myself something to eat, and that we lay down to rest ourselves (though it will not be supposed my sleep was very sound), it should also be recollected, that it appeared that I was employed, in the middle of that night, in examining the guide, and setting the bearings and distance for Captain Whittingham's reconnoissance the next morning. I should not allude to so trifling a circumstance but for the purpose of repelling the insinuation which could not but be intended to be conveyed by the pointed manner in which that question was asked. I must also request the Court to recollect, that it has been proved, that on our retiring to Mr. White's house, though naturally anxious for the right, no suspicion was entertained by any officer about me of any disaster having happened to it; but that we retired with a full conviction that it was, like the left, safely posted: and very soon after day-light the next morning, I received the letter from General Liniers, stating General Craufurd's surrender: but having sent

Captain Whittingham to the right, I waited until between twelve and one o'clock for his return, before I went to the Toros. So many important subjects of discussion have occurred as to this day, that I must, before I quit it, shortly recapitulate the arguments, which, with great deference, I submit to the Court upon this charge of not co-operating with or supporting the attacks, whereby some of the columns surrendered.

I trust I have satisfied the Court, that the plan was not founded upon support from the centre; that the brigadier generals were not justified in expecting it; but that, from the nature of the disposition, they would necessarily, on arriving at their respective stations, co-operate with and support each other: and accordingly it was so understood, and acted upon, on the left; upon which flank it will be seen, that the moment Sir S. Achmuty found that he could not penetrate the street, and occupy the buildings, as directed in the orders, he posted his own division, and immediately proceeded in person to establish communication with the other divisions of that wing. In consequence of which, when finally pressed, so as to make it obvious that no benefit could result from attempting to maintain any post in the town, the whole of that wing (with the exception of the 88th, which had been entangled in the vicinity of the centre defences of the town), returned to the flank, and took post at the Toros. If I have succeeded in explaining this part of the case, it is clear that I was not to move from the centre, until I knew of some object, or that some point wanted support.—To have estimated the danger of Brigadier General Craufurd's brigade without actual information, I must have foreseen, that he and those with him would totally deviate from the plan of attack, or that it was impracticable; that he would occupy a post not tenable, and from which he could not retreat; that knowing he could not retreat from it, he would suffer

himself to be surrounded, so as to have his retreat cut off; and that, having occupied a single post (and such a one!) with his own division, and detachments from two others, instead of a line of posts mutually supporting each other, he would not send to apprise me of his intention, but presume upon my co-operation or support, which neither was promised, nor consisted with the plan, or the disposition of our force; and, finally, that a resistance, of which there is no example, would be made by the inhabitants of an open town, against so formidable a body of disciplined troops.

It has been asked, where was Colonel Mahon's brigade? and why was it not united with the rest of the army?—And, though it has not been asked, why the attack was made before its junction. Questions, having a similar tendency, have been put, as to the effect which would have been produced if it had taken part in the attack. It has also been asked, why no other efforts were made to open communications; and many questions have been pressed as to the practicability of communicating either by the centre or the flanks. It has also been asked, why further orders were not sent to the corps in the town? and, finally, why I did not personally collect my force, and put myself at their head, and communicate with the attacks?—I will candidly answer all these questions: and although, in so doing, I cannot acquit myself of some blame, I think the Court will feel that my offence, whatever it may be, is of a description that cannot be said to attach disgrace, either to myself, or my profession, or my country, or His Majesty's arms:—That it neither justifies the charge, nor the odium which has been cast upon me. I have (in common with others who have gone before me) in a trying situation, under novel circumstances, against my own judgment, adopted a plan of attack which has failed. I unfortunately underrated the resistance of the enemy, and estimated too

highly our means of attack. A false confidence (as the event has proved), not only governed the preparatory arrangements for the attack, but operated in producing all the events of that day. Every preparation, every occurrence, of that day, originated in the supposition, entertained by others in common with myself, of the ultimate success of the plan. I was acting under that impression: and the charges are founded upon the result, and not upon impression derived from existing circumstances, and from what those with me saw and knew at the time! I was waiting for reports of success, that I might send orders to take advantage of it; and my actions, which were founded on a conviction that no possibility existed of a failure, are scrutinized as if I had known of the peril of others, and had failed to perform my duty in extricating them! I admit, that, had I foreseen the desperate resistance of the enemy, I should have made no such attack; or, at least, should have waited until Colonel Mahon came up, and availed myself of all the force in my power. It has been asked, why I did not avail myself of his brigade to extricate the right? the answers are, that I never suspected that it wanted that assistance; and if it had, Colonel Mahon did not cross the bridge until dusk. I was, in the confidence of success, waiting for reports; while the generals, by some misunderstanding, state, that they were waiting for orders. I had understood that General Gower, who explained to them the details upon the map, had given orders to report; and I remained for that purpose at the Coral: but, independent of this, the Court will consider whether, under all the circumstances, General Craufurd, who certainly did know where I was, ought not to have reported his situation; which he might have done for three hours after he occupied it. With respect to the facility of communication, I think it will be admitted, after the attempt of the Carabineers, that it could not have

been forced, after the middle of the day, or indeed earlier, through any of the central parts of the town; but though the carabineers, who had approached the centre defences, could not penetrate, I did not necessarily infer disaster to the columns, which were directed not to persevere against those defences. I might have opened a communication with the flank corps, and possibly by the corps at the Residencia, if I had applied any considerable portion of the carabineers and the 9th to that purpose; and no doubt can be entertained, that I should have done so, if I had suspected the necessity. But I have shewn, that circumstances led me to conclude that the right had succeeded more completely than the left. Upon the subject of the confidence entertained in the success of the attack, I think the Court will feel satisfied, that whatever might be the shades of differences of opinion as to the plan at *the time* (for I deprecate judgments formed *now*), no difference of opinion existed as to its *success*, and no apprehension of its failure. This has been proved by various officers of the staff, who were more likely than all others to have heard any such opinion, if it had existed. It has been proved, that though my second in command was with me the whole day (and one of my reasons for keeping him was, that the plan had been considered and arranged by himself), neither he, nor any other person, either felt the danger, or suspected the misfortune, which happened; or suggested any means, founded upon any such suspicion; but that they were, like myself, expecting every moment to hear of our columns being in possession of the town. No measure, therefore, was proposed or suggested; and we returned to head-quarters with a full confidence in the safety of the right. Is not this a proof, from facts (more strong than any evidence subsequently given), of the impression which then existed? To conclude this charge, I may have erred in adopting a plan

which has failed ; I may, from too great confidence in it, have neglected to take all the precaution necessary, and which I should have taken, could I have foreseen the resistance which was opposed to us. I may, under this impression, have permitted valuable time, on the morning of the 5th, to pass by, in the expectation of receiving accounts of our columns being posted : and acting upon the impression of the moment, and which I felt only in common with others, as to the ultimate success of the attack, I may not have taken steps and made exertions which were called for by events of which I had no knowledge. The Court, therefore, I trust, will see that whatever blame may, in their judgment, attach upon my conduct, can originate only in my not having foreseen these events, in an error of judgment, in under-rating my enemy's, and too highly estimating my own, forces ; and that the charge, therefore, is neither applicable to the case, nor the circumstance or situation in which I was placed.

I have endeavoured candidly, and I hope satisfactorily, to put the Court in possession of the causes of the result of that day. I think I have proved, that the misfortunes which happened were produced by causes having no connection with the charge ; many, if not the greater part of them, not originating in my conduct. And yet I have been arraigned for not having made, although it was in my power, any effectual attempt, by my own personal exertion, or otherwise, to co-operate with or support the different divisions of the army, when engaged with the enemy ; with having left those divisions without aid or support, and thereby compelled them to surrender ; and upon this charge evidence has been pressed with peculiar earnestness (the result has shewn how urgently) against my personal character. For the errors I may have committed on that day, and with which I am now charged, I throw myself upon the justice, the candour, and liberality of the Court, satisfied, that the errors in judgment

will not (after the numerous instances in which others have made false estimates of the comparative means of resistance and attack) be considered by the Court as meriting even that which I have already suffered in this prosecution.

Upon the fourth charge, in which it is imputed to me, that I shamefully abandoned and delivered up to the enemy the fortress of Monte Video, which was not then in a state of blockade or siege, I might rest satisfied with referring the Court to the evidence of the General Officers, and Admiral Murray, inasmuch as no evidence has been adduced to support it; for every person who has been examined upon it, has completely disproved the charge. The details into which General Gower and Sir S. Achmuty have entered upon this subject, would also justify me in referring to the evidence, instead of attempting to add less powerful reasons of my own: but as on this charge is founded so much of the public clamour against me, I must request permission of the Court to offer a few observations upon it. I must recal the recollection of the Court to the observations I have before made upon the state of South America and the dispositions of the inhabitants towards us, and their views and objects with relation to any intercourse or connection with us. I must also request the Court to refer to my instructions, and to my commission as civil governor, as well as that of commander of the forces in South America; and I shall also lay before the Court the information communicated to me on my arrival in South America, by the distinguished officer who commanded there, and which I have stated in my preliminary observations.

But before I proceed to apply all these observations, it is necessary that I should advert to the situation of the army on the morning of the 6th; for it is obvious, that in the investigation of this charge no prior event can influence the question whether I acted with sound discretion or not, in concluding the treaty upon which this charge is founded.

Whatever may have been the causes which placed the army in that situation, it became my duty to act upon the circumstances as they then stood; and I trust I shall shew, that in pursuing the course I did, I disregarded all personal considerations, and, to the best of my judgment, pursued the line of conduct which was most conducive to the public interests; and though we had possession of a situation on each flank of the town, and at the Toros had taken a considerable proportion of the enemy's artillery, yet we had in fact made no real impression on the enemy, particularly on the centre defence of the town. The best troops of the army were prisoners in the hands of the enemy. Our loss was severe, including, as the Court have heard, and the details of which, therefore, I need not repeat, a very large proportion of the army. Experience had shewn that we under-rated their means of resistance, and success had increased their confidence, and misfortune in the same proportion lessened ours. The first object of consideration was the propriety of renewing the attack, and the mode of doing it; the chance of success, and the use we could make of that success if within our reach. Every personal feeling as a soldier would have most powerfully urged me to proceed, and endeavour by ultimate success to withdraw attention from immediate failure; and every motive of even interest, as civil governor, would have led me retain as much as possible of what we possessed in South America.

It is not necessary for me to enter into any discussion as to the practicability of still taking Buenos Ayres; though I think the Court, on referring to the description of the town, its extent, the nature and construction of the buildings, and still more the ground, would not place any great reliance upon the effect of batteries erected at the Toros, which might have ruined some of the adjoining squares of houses, but could have produced little effect upon the rest of the city, or upon the centre of it. If cutting off supplies was a

doubtful expedient with my whole force, it was clear that it could not be attempted with that which remained. But I need not press these points, as the motives by which I was governed would have withheld me from making the attempt, even had our chance of success been much less doubtful than it was possible, in any view of the question, to consider it to be.

I was fully satisfied; and on this General Gower and Sir Samuel Achmuty agreed with me in opinion, that the capture of the town would, under the circumstances in which we then were, have answered no beneficial purpose; and it was doubtful whether we could have maintained it if we had taken it.

I felt satisfied that a renewal of the attack would have been attended with the destruction of the prisoners, in which opinion many others, who had been in the town, concurred:—and though I do not contend, that even the safety of the prisoners ought to have operated to have prevented my pursuing any great national object, yet I think it will be admitted that, with the opinion entertained by myself and General Gower, and Sir Samuel Achmuty, that no beneficial object would be attained by the capture of the place, I should have deserved the execrations of my country, and to have been driven from society, if I could, with such impressions, have wantonly incurred the hazard of sacrificing the lives of so many brave and unfortunate men, to gratify my personal feelings.

The renewal of the attack, therefore, was not a subject of very long consideration. The next and most important object of consideration was the giving up (as proposed by General Liniers) our footing in South America, and retiring from the Plata, as the only means of redeeming the prisoners. On this subject many important considerations occurred, most of which will have been anticipated by the Court, from the preliminary observations I have made

upon the state of the country and the nature of my instructions.

It was supposed in my instructions, that the number of men necessary to conquer, and keep, the province of Buenos Ayres, would not exceed 8000 men, which is stated to be as large a force as the country would be willing to spare for this object; relying, as the Government then did, in consequence of the false information (which, as I before stated, had been given in this country with respect to the state of South America) upon the assistance to be drawn from colonial force. I found that a residence in the country of some months had produced a conviction in the mind of Sir Samuel Achmuty, which subsequent events could not but confirm in his mind, and impress upon mine, that double that force would be required to conquer and maintain the country; that it must be occupied as a hostile country, with every inhabitant as an open or concealed enemy; and that under many disadvantages in a military point of view, of the temptation to desertion (the effect of which I saw during my short residence in the country), the extent of country to maintain, and constant supply of soldiers which the number required, and the nature of the service, and desertion, would render necessary.

The inhabitants became every day more exasperated, as experience had proved, on my attempt to hold a military post or any civil authority in the country; and we could not ensure the maintaining Monte Video, but by turning out of their habitations (as has been proved by Sir Samuel Achmuty) nearly 14,000 inhabitants—an act which must have required very powerful reasons to justify it, and almost for ever precluded the hope of forming any future connection with that country.

The Court will have seen, from the instructions to General Craufurd, and mine, which in that respect refer to his, that I was in the strongest manner, and without

the smallest deviation, precluded from holding out any hope or expectation of assisting in their views of independence, or even of affording assurances of protection in case of peace, or that the country we might occupy in South America should not be restored to Spain by any treaty at the end of the war.

I felt therefore satisfied, that I could only maintain a burthensome command at Monte Video, useless to the country, either in a military or political point of view, or at all events holding out or securing no advantages adequate to the difficulty of maintaining and supplying it in the manner described to the Court, while the possession of it was only to be kept by dispossessing the inhabitants of their houses. With these impressions upon my mind, as to the value of that part of South America which it might be possible for me to retain, I had to consider, on the other hand, the situation of the army. If it was useless to remain in that country (as I was convinced it was, to any real purpose, commercial or political), the next object of attention seemed to be, to preserve the army for more valuable objects. In addition to the men taken prisoners under General Beresford, a large proportion of my army had fallen into the enemy's hands. We could have no hope of procuring the restoration of any of them, but by agreeing to leave the Plata; and the Court will have seen, that the recovery of the prisoners under General Beresford was made in my instructions an indispensable article. The question, therefore, was reduced to a simple point—whether it was eligible to resign that which I, and those whom I advised with, thought of no value to the country under all the circumstances, for the sake of restoring to the country the army under my command, which, having failed to attain the object in view, I felt it my duty to preserve for more important and useful service. Actuated by all these, and many more considerations of this sort (for it would not be difficult, if it was necessary to

pursue the subject much further), and in concurrence with the General Officers of my army (one of whom was, from his residence in the country, and experience acquired in it, as well as from his acknowledged talents and high and justly-acquired character and sound judgment, peculiarly able to advise me upon this occasion), I entered into the treaty for quitting the river Plata upon the terms stated: the main and important object being the restoration of the numerous prisoners: and, in so doing, I am well assured that, after this investigation, and the information the Court will have received from the evidence produced, and the papers I have alluded to, the Court will think that I exercised a sound discretion, and was actuated by public motives; in opposition to every private feeling and interest, which would have led me at all hazard to have endeavoured to recover what I had lost, or at all events to retain a footing in South America. I need only refer again to the evidence of General Gower and Sir Samuel Achmuty, particularly that of the latter, and his pointed and decided answer to a question of the Judge Advocate, formed on the clause in my instructions which provided for the case of its becoming necessary, at any subsequent period, to abandon whatever had been before possessed; and to withdraw the whole of the British from that country, that he was of opinion, *that the necessity had occurred in a military point of view.*

I have thought it necessary thus shortly to state the motives which actuated me in signing that treaty, for the purpose of laying before the public, and presenting to the Court, part of the grounds upon which I and others have been led to believe, that no valuable object could have been, in the present disposition of the inhabitants of that country, attained by the holding any military post there upon the terms on which we must have held it; and to prove, that the hopes which had been entertained upon the subject of South America, however general, were not

just; and that all the expectations which had been raised on the possibility of our forming a connection with the country were fallacious. The exclusion of our manufactures from the Plata since the evacuation is an additional proof, if any were wanting, of the present spirit of that country.

Having said thus much in relation to this charge, on general grounds, I cannot, in justice to the Court, and for the sake of precedent, conclude, without suggesting to the Court and the Judge Advocate, whether this charge also has not been founded on a misconception of the nature of the case, and a misapplication of the clause in the articles of war, to the circumstances under which I stood in making that treaty.

I have not adverted to this, until I stated the grounds on which I acted in exercising the discretion entrusted to me, but have thought that I should be justified in omitting to observe upon it. The Court will recollect, in the first place, that I was civil governor of the province; and that in a military point of view, and with reference to the articles of war, this fortress was actually in charge of another officer under my command.

A commander-in-chief of an army, having a general superintendence and command, is not "an officer holding a fortress committed to his charge, or which he is ordered to defend."

A commander-in-chief of an army may order the commander of a fort to surrender it; but that will not make him the commandant of the fort, within the articles of war.

The commander-in-chief of an army, and more particularly as civil governor, has undoubtedly a reasonable discretion as to what posts or fortresses he will continue to hold; and in the due exercise of this discretion may order any particular fortress or fortresses to be given up. This flows necessarily from the nature of the authority of a commander-in-chief and civil governor, under which

commissions he, for the purposes of war, represents his sovereign; for which doctrine Vattel and other authorities might be referred to; and in this case the discretion as to destroying Monte Video is specifically given me by my instructions. But the governor of a fortress (as of Gibraltar), or the officer in charge of a fort, has no such discretion; he can only resort to absolute necessity for his justification. The articles of war apply to the governor, or actual commandant of the fortress, to whom it is *specifically* given in charge, and who has the particular defence of it.

The Court will also recollect, that the Judge Advocate, by the question he so pointedly put to Sir Samuel Achmuty, seems to consider military necessity as the only ground; which I have before shewn to be applicable only to the actual commander, and not to the commander-in-chief, or civil governor.

The fortress is stated in the charge to have been neither in a state of blockade nor siege—words which, I am inclined to think, would in themselves do away the charge, as proving, that the treaty by which it was restored neither had, nor could have, any reference to military considerations, or any military charge or defence of it.

But it is not necessary for me to pursue this further: I have not felt it necessary to my case, as it is not a charge upon which I have ever entertained a moment's anxiety; satisfied, as I have been, that the more this part of my conduct was investigated, the more convinced those who entered into the investigation, and ultimately the public, would be, that, in the concluding act of my command, I, and those who advised what I adopted, had pursued the course pointed out by the interests of the country, under all the circumstances of the case.

I have at length arrived at the conclusion of the observations which it has been my duty to make upon this important case. I have been compelled to enter into elaborate

details, and to trespass upon the patience and indulgence of the Court at an unusual length. But it is, as the Judge Advocate has stated, no common case. The country look to your dispassionate judgment as a guide, by which they may hereafter duly appreciate the real characteristic of the transactions. I look to that judgment as a protection against public prejudice. I have looked to this trial as an opportunity (the use of which I am sure will not be denied me by this high Court) of which I might honourably and properly avail myself, to repel the calumnies which have been levelled against me. It has not been enough to load me with opprobrium, as the sole cause of the misfortune in South America; to propagate malicious slanders against my character and conduct in this expedition; but the persevering industry with which calumny pursues the unfortunate, has been busily employed in collecting materials to attack my former services, whether at home or abroad: and not satisfied with this effort, my military life (now upwards of thirty years) and first introduction into the service have been the subject of the most contemptible falsehoods, in publications spread with industry, bought up with avidity, and implicitly believed, because they gratified the general inclination, which unhappily too often leads public opinion to confound all distinction between crime and misfortune, and to consider want of success as conclusive proof of misconduct. I hope and trust, that the full and minute investigation which this transaction has undergone, and your dispassionate judgment upon my conduct, will allay the public feeling as to this event.

But, as calumny has been busy with my character, I must, when I produce my evidence, intreat the indulgence of the Court, and their permission, to take up a few minutes of their time, by producing testimonies of former service. I entered the service at an early period of life, as an ensign, under the high and distinguished auspices of Lord Barrington; and in consequence of having received a

military education at the most celebrated institution of that day, I was appointed adjutant to a battalion of flank companies before I had been six months in the service. I have for upwards of thirty years been actively employed as an officer in the service of my country. During that period, I have been ten years in the West Indies; and at one period of that time engaged in active service in St. Domingo, part of the time in command there. During that service, I received honourable testimony of my conduct, and shall beg permission of the Court to allow me to request General White, under whom I served in St. Domingo, to state his opinion of my military conduct while in active service under his command. I shall also present to the Court a letter from General Spencer (who was the next in command to myself), which he has left with me for that purpose, as the public service did not admit of my detaining him to give evidence. I have selected these two officers, as best able from our relative situations to speak of my conduct; and I have chosen that period, as most applicable from the nature of the service. The other evidence I shall have to produce will not occupy much of the time of the Court.

General Whitelocke requested permission for Mr. Harrison (his Counsel) to read his defence; but the Court would not allow it, on the ground of establishing a precedent contrary to the practice of Courts Martial; but intimated, that they would allow any military friend to read for him, and also any near connection, who did not attend to assist him professionally: and, accordingly, on General Whitelocke's intimating a wish for that assistance before he concluded the first head, Mr. Sewell finished that head, and read the next; Mr. Lewis read the third and fourth; General Whitelocke the 5th; the Hon. Brigadier General Meade the 6th; and Mr. Sewell the conclusion.

Judge Advocate—The evidence which I now hold in my hand, are letters written by Sir Samuel Achmuty to the Secretary of State for the War Department at home. I must state to the Court, that these are not, strictly speaking, evidence, because any information which they can convey, ought to be received from the writer himself, who has been heard in Court, and who certainly may be called again as a witness: but I have not the slightest objection. I believe it would be the quickest mode in which any information Sir Samuel Achmuty had to convey to the Court could be laid before them; and therefore I shall wave the objection, which, strictly speaking, I have the means of taking.

Letter from Sir Samuel Achmuty to the Right Honourable William Windham.

SIR,

Monte Video, Feb. 7, 1807.

I have detailed the circumstances attending the capture of this place, but there are many points connected with it that require to be more particularly explained. The transports that brought us hither were such bad sailers that we were obliged to go into Rio Janeiro for water. I there learnt of the recapture of Buenos Ayres, and of our having possession of Maldonado. What force occupied it I could not learn from any good authority.

Under these circumstances, uncertain whether any impressions could be made on this coast, I requested Captain Donnelly of the *Ardent*, to complete the transports to four months provision and water, if it could be effected at that place, for there was not a victualler with us; and I directed the Commissary to draw bills for a sum sufficient to advance part of the pay due to the troops. These services were performed at very favourable rates.

On my arrival at Maldonado, I found the troops there without artillery, without stores of any kind, with only a few days provision, and without any prospect of procuring more, unless I detached a large force many miles in the country, exposed to the insults of a corps of 400 horse, that hovered round us to intercept supplies.

Our horse (we had 200 or 300 mounted) were unequal to pursue them, for the horses are not sufficiently strong to bear the weight of our equipments.

The enemy are armed with swords and muskets; they ride up, dismount, fire over the back of their horses, mount, and gallop off. All the inhabitants of this country are accustomed to this mode of warfare, and every inhabitant is an enemy.

Maldonado is an open town, and so situated that it cannot be made tenable with a small force. As it was of no consequence, in any point of view, I recommended its being evacuated, and the Admiral assented to the measure. Monte Video now appeared the only point I could with propriety assail, and I conceived my resources equal to the enterprize, but I found it a most arduous undertaking. I had not entrenching tools sufficient to make approaches; and after a few days firing, the powder in all the fleet was reduced to 500 barrels, about four days consumption. To add to my difficulties, 4000 picked troops, with 24 pieces of cannon, were rapidly approaching me. I determined to assault the place at all events, and happily succeeded, though with a heavy loss.

So immediately after the capture it is impossible to estimate justly the value of the conquest. It is strong and amply supplied with artillery, and a great quantity of ammunition. We should want powder if the siege was greatly protracted. We also want artillery men. But how to provision the troops requires much deliberation. If the country is open, meat may be had in abundance, and cheap; but flour is very dear and difficult to be obtained. Fuel is extremely scarce. Forage there is none. Should the country be shut up from us we must live upon salt provision. At all events, if it is determined to hold this place as a post, without further operations, large supplies of powder, flour, spirits, and salt meat, should be immediately sent out.

The capture of Buenos Ayres might make an alteration in the behaviour of the natives, but at present they are inveterately hostile. My force, after leaving a garrison in this place, would be unequal to the attempt; for though I should not fear meeting them in the field, they would soon harrass me with their desultory attacks; nor could I keep in subjection an open town of 70,000 hostile inhabitants. In my opinion it will require a force of 15,000 men to conquer and keep this country.

I have but little time to make any arrangements within the town. The heads of all the offices are fled with their books and papers. The only measure I have yet adopted respecting the revenue is, to appoint a collector and comptroller of the customs, and a captain of the port. The duties directed by his Majesty will be punctually attended to; but, with the approbation of the Admiral, I have determined, from the necessity of the case, to open the port for eight months, to neutrals bringing any article of food or liquor. How far I am justified in taking this measure on myself, I am ignorant; but I am convinced it is a necessary one; and his Majesty's order is founded on the supposition that the city and province of Buenos Ayres is in his possession.

I have the honour to be, with great respect,

Your most obedient humble servant,

S. ACHMUTY.

The Right Hon. William Windham, &c. &c.

*Letter from Sir Samuel Achmuty to the Right Honourable
William Windham.*

SIR,

Monte Video, March 6, 1808.

When I last had the honour of addressing you, I had so lately gained possession of this fortress, and was so little acquainted with the country, that I could not presume to give more than a general opinion of the disposition of the inhabitants. I had every reason to believe they were, without exception, inimical to us. Previous to the surrender of Monte Video, I could place no confidence on any information I received, nor did any person superior to the lowest class come over to me. After its capture a sullen silence pervaded every rank; and for some time the best informed among the principal citizens appeared ignorant of the most trifling occurrences.

The seizure of the viceroy by the inhabitants of Buenos Ayres, an event certainly very important in itself, first gave me an insight into the views of many of the leading men, and convinced me that, however inimical they were to us, they were still more so to their present government.

The Marquis Sobramonte, viceroy of the province, had fled from Buenos Ayres, at its conquest by General Beresford. On the recapture Signior Liniers, who commanded the troops on that occasion, was appointed Governor of the City, and admittance was refused the Viceroy, who took up his residence at Monte Video. Previous to our investing it closely, he left it with a small corps, and a number of guns, and continued in its vicinity some time subsequent to the capture.

Immediately after the *Leda* was dispatched, I wrote to the Viceroy, demanding that our prisoners, taken at Buenos Ayres, should be delivered up agreeably to the capitulation; and declaring that all the prisoners we had taken should, without exception, be sent to England, if the demand was not complied with. In reply, he acquainted me that he waited the orders of his sovereign before he could take any steps respecting his prisoners. This answer I communicated to the late Governor, and to the Cabildo, assuring them, that much as I regretted the necessity I was reduced to, I should certainly send away the prisoners.

I was now requested to write to the Cabildo, at Buenos Ayres, and was informed that they alone could comply with my demand, as the Viceroy had no authority whatever, and the province was under their orders.

I now determined to send to Buenos Ayres, to demand the prisoners, and at the same time to offer terms to the inhabitants, if they would surrender, but I waited until a force I had directed to advance into the country, had begun its march. The intention of this corps was to oblige the Viceroy to fall farther back, to open the country, and to try how far it would be convenient to advance by land to Colonia. The Viceroy retreated on the first intimation of their approach, and fell in with a corps sent from Buenos Ayres

to apprehend his person. He was conveyed a prisoner to that city.

To the reports of this capture were added others still more important; and I received them from so many quarters that I could not avoid placing full reliance on them. It was added that the Royal Court of Audiencia was abolished, the king's authority set aside, and the Spanish colours no longer hoisted.

These reports were circulated with avidity, and I soon found that they were acceptable to the principal part of the inhabitants.

The persons who before appeared hostile and inveterate, now pressed me to advance a corps to Buenos Ayres; and assured me, if I would acknowledge their independence, and promise them the protection of the English Government, the place would submit to me.

Being fully determined to give no assurances whatever, but desirous to gain further and more positive information, I resolved to send an officer to Buenos Ayres. He was dispatched with a letter from the Admiral and myself, to the Cabildo, claiming our prisoners agreeably to the capitulation. It was also intimated, that we had heard they had refused obedience to the authority of the King of Spain; and as it was impossible they could have had time to arrange a form of government, and consequently must be in a state of anarchy, we invited them to submit to his Britannic Majesty's authority, assuring them of the full benefit of their laws and religion, and security to their property. The vessel conveying these dispatches, fell in with a boat, with General Beresford and Lieutenant Colonel Pack on board, and returned immediately to Monte Video without delivering them.

The escape of Gen. Beresford, an event as pleasing and important as it was unexpected, has put us in full possession of the views of the leading men, and the real state of the country. He had been ordered, immediately after the fall of Monte Video, to a town 300 leagues inland, and was already between 40 and 50 leagues from Buenos Ayres, when two Spanish officers, in the family of the Governor, who had been endeavouring to enter into some political negociation with him, proposed to assist and accompany him in making his escape, which, with great difficulty, was effected; and the General, after being three successive days secreted in Buenos Ayres, fortunately reached the ship with our dispatches.

From the General I was made acquainted, that the report of the suppression of the Court of Audiencia, and the revolt from the Spanish authority, was unfounded. The forms of the ancient Government were still adhered to, and the Court of Audiencia, as next in authority to the Viceroy, assumed his power, but the city was a prey to every disorder and tumult.

The letter to the Cabildo was in consequence withdrawn, and one addressed to the Viceroy, or officers possessing the supreme authority, was substituted in its place.

I have the honour to enclose a copy of it, and of the answers received from Buenos Ayres.

From these answers it may be supposed that the leading people are unanimous in their determination to defend the place and keep their prisoners. But it appears that there are two parties in that city.

The party now in power are mostly natives of Spain, in the principal offices of church and state, and devoted to the Spanish Government. It has been their policy to inflame the minds of the lower order against the English, by every species of exaggeration and falsehood, and to lead them to such acts of atrocity as may preclude the possibility of any communication with us.

From a consciousness that similarly situated, they would breathe nothing but revenge, they expect no mercy, and are become desperate and determined.

The second party consists of natives of the country, with some Spaniards that are settled in it. The oppression of the mother country has made them most anxious to shake off the Spanish yoke; and though from their ignorance, their want of morals, and the barbarity of their disposition, they are totally unfitted to govern themselves; they aim at following the steps of the North Americans, and erecting an independent state. If we would promise them independence they would instantly revolt against the Government, and join us with the great mass of the inhabitants. But though nothing less than independence will perfectly satisfy them, they would prefer our Government, either to their present anarchy or to the Spanish yoke, provided we would promise not to give up the country to Spain at a peace; but until such a promise is made we must expect to find them open or secret enemies.

I have thought it my duty to state, thus briefly, my sentiments of the views of the people of this country in their present state of mind. I do not think I have a force sufficient to attempt the reduction of the capital. They have a large body in arms, and are possessed of a powerful artillery. My present acquisition is too important to be left slightly defended; and I am sensible that every inhabitant within the walls is an enemy, and ready to commit any desperate act, if the least encouragement is given. Though I am still of opinion that I could defeat them in the field, and perhaps take the place, I cannot expect it without loss; and I am firmly persuaded I could not keep it when obtained, and that by grasping at too much I endanger the whole. If the force which has been promised me, has not been required for other purposes, I may anticipate a successful issue, but otherwise I must content myself with endeavouring to preserve in quiet the footing we have obtained, until I receive further instructions from home.

This letter will be delivered to you by General Beresford, who has declined assuming the command, and has determined to proceed immediately to England.

Though I regret extremely, that an officer of his superior military ability, should not be employed in a country where, aided by his intimate knowledge of the seat of war, and the language, man-

ners, and persons of the principal inhabitants, they must ensure success; yet I am very sensible that they will be essentially useful in assisting his Majesty's ministers in coming to a determination, as to their views in this country.

I have the honour to be, &c.

S. ACHMUTY.

The Right Hon. William Windham, &c. &c.

Letter inclosed in the above, from Sir Samuel Achmuty, to the High Court of Audienza.

GENTLEMEN,

Monte Video, April 26, 1808.

You must be acquainted with the capture of this place by the troops under our orders, and probably have been informed of the very extraordinary lenity shewn to the inhabitants, even at the moment of assault.

Their lives, their religion, and their property, have been held sacred, and they are now blessing the hour that relieved them from a state of anarchy, and placed them under the mild Government of our august Sovereign.

The prisoners, taken in arms, are kindly treated—the officers are admitted to their liberty on parole—and such privates as are inhabitants of the town, are allowed to return to their families. Acts of lenity like these, soothe the horrors of war among civilized nations; and we had expected to find our prisoners equally well treated, by a nation that was remarkable for good faith and high honor. We have been greatly deceived. From the best authority we know that a solemn capitulation has been violated—that our prisoners have been ill-treated—some of them assassinated—most, if not all, left without pay, and marched far into the interior of the country, under hardships and inconveniences revolting to humanity: and for what purpose is this deviation from the laws of nations? The number of prisoners in your possession is too trifling compared with our force, to influence our movements. You have consequently broken a capitulation without benefit to yourselves. The treatment of them must be retaliated. You consequently expose your own relations and friends to unnecessary hardships.

Revolting as it is to our feelings and to humanity, we have a duty to perform, and we must perform it. After this solemn appeal to your honour and to your feelings, we assure you, that our prisoners will be sent to England, unless the capitulation of Buenos Ayres is put in force, and the prisoners in your possession are returned.

We have just cause to complain of the inhabitants of Buenos Ayres; but when we reflect on what that city has already suffered, our anger ceases, and we earnestly wish to relieve it from further sufferings. Save us the painful necessity of marching against it, of aiding in, and witnessing its ruin. We offer you your laws, your religion, and property, under the protection of the British Government.

An officer of rank, Major Campbell, is sent to treat with you. He is acquainted with our sentiments, and we refer you to him for further particulars.

(Signed) ACHMUTY.

Letter from the Court of Audiencia to Admiral Stirling and Sir Samuel Achmuty.

SIRS,

Buenos Ayres, March 2d, 1807.

When this tribunal considers the origin and motives which have induced your Excellencies to send us your letter of the 26th of February last, we are neither surprised at your requests, nor alarmed at your threats. The shameful flight of Major General W. C. Beresford and Colonel Pack, our prisoners, who, in violation of their honor, have broken their word, in clandestinely escaping to Monte Video, has been the cause of your Excellencies filling your letter with an accumulation of falsehood.

Your honor requires you to acknowledge this, for being convinced as we are of the truth, we will do you the justice to believe you cannot deny it.

In the first place, it is false that when this city was re-conquered, any legal compact, or condition which ought to bear that name, was entered into between the commander of our army and Major General Beresford. Capitulations are always entered into during suspension of arms, previous to a surrender, when the contracting parties regulate the conditions. Nothing of this occurred in the present case, and Major General Beresford cannot deny that he surrendered at discretion. If Major General Beresford had capitulated, what motive could have induced him to have publicly thrown down his sword, as he did, after seeing the inutility of his making use of a flag of truce, and when hoisting our flag in the fortress, where he was shut up, and the walls of which we had already begun to storm.

If there was any capitulation, it was only a private agreement long after the surrender, and procured by the act of the Major General, who took advantage of Don Santiago Liniers, making him believe some days after the re-conquest, that the only wish he had to obtain the paper in question, was to have such a document to justify his conduct to his Court; and in short, as this point has been laid in due form before our respective sovereigns, we shall say nothing further on the matter, except that the English prisoners cannot be removed from whence they are now.

The bad treatment of the officers and troops is another falsehood with which your Excellencies have been deceived. With respect to the prisoners, and particularly with respect to the Major General himself, every attention has been paid, and which most certainly they would not have received from any other nation. The pay allowed them for their subsistence has been very punctually sent: their effects were all safely returned to them, though it is clear that amongst them was money which they took when they first entered this country. They were suffered

to be in a state of liberty, which they did not know how to value, and the bad results from our lenity are manifest. It became absolutely necessary to remove them from this city, as their conduct was very improper; but every accommodation and assistance in our power was allowed them. The Major General was sent to Luxan at a small distance from this capital, with seven or eight other officers of his own choosing, and he employed himself at that place as he had done in this city. He was constantly endeavouring to seduce by artifice and dissimulation all those with whom he conversed, encouraging insubordination and independance, though without effect. This was the motive for removing him and the other officers to a more distant place; but our attention on the occasion was so great, that to remove from Luxan eight officers, including the Major General, two thousand dollars were expended, and a great part of this sum was for the convenience and accommodation of the latter.

If he had acquainted your Excellencies that since the 27th of June, on which day this city had the misfortune to be taken possession of, he suffered all the officers who were prisoners to live in the greatest misery, without allowing them a single real; if he had informed you of his misconduct, and had, as an honest man ought to have done, confessed what has been explained with respect to the good treatment he and his officers experienced, and which from unquestionable documents will be made evident to the court of Europe, there is no doubt but that your Excellencies would have detested his conduct, and that your letter would have been conceived in different terms.

It is true that one of the officers at Luxan was killed by a malefactor, of which there are abundance in all countries; but this misfortune ought to be attributed to the imprudence of the officers themselves, who left their places of residence without taking their arms, which had been generously given them for their protection. But the Major General cannot deny how much we felt, and how anxious we were to discover and punish the delinquent: nor can he deny that in consequence more soldiers were sent to protect the officers' persons from every insult. It became, however, necessary that they should be removed further into the country.

The offer your Excellencies now make us of our laws, religion, and property, under the protection of the English government, is conformable to the conduct held by Major General Beresford; it is an offence against the high honor of our nation, and we understand it as such. Spaniards only value their property and their lives that they may employ them in the service of their king.

The people of Buenos Ayres are the most faithful to their sovereign of any who acknowledge his dominion, and feel themselves happy to be under it, and anxious to sacrifice every thing in proof of their loyalty.

The numerous troops which we have here, are prepared and dis-

posed to make the most vigorous defence, and the premature proposals with which your Excellencies have endeavoured to ripen their love for their king, have produced no other effect than that of indignation, which will impress every one with the energy to resist any attempt to destroy their happiness.

Lastly, we must not omit mentioning to your Excellencies that it would be conformable to the decorum of the British nation, if Major General Beresford and Colonel Pack return to their prison of honor, and on which point the requisite reclamation will be made by the General Santiago Liniers, with whom your Excellencies will communicate in all war matters, he being lawfully authorised to treat thereon.

God preserve your Excellencies many years.

(Signed)

Lucas Munoz Fran. Thomas y Arbero de Angotigne.

Juan Bazo y Berry.

Joseph Marquez de la Plata.

Manuel de Pelarro.

Manuel de Villota.

Antonio Caspe.

Y. Rodriguez.

Letter from General Liniers to Admiral Stirling and Sir Samuel Achmuty.

SIRS,

Buenos Ayres, March 2d, 1807.

I am very sorry that the first time I have the honor to write to your Excellencies, is on the unpleasant subject of complaining of proceedings of officers of your nation. Major General Beresford and Lieutenant Colonel Pack of the 71st regiment, forgetting every sentiment of honor, and in violation of their word, and the oath which they had taken on the 6th of September last, have absconded, and the first with the infamy of having fomented an insurrection in this county, where the greatest part of his vile accomplices, now under the lash of the law, will soon pay for their horrid crime.

This violation of public faith and the law of nations has however, only increased the enthusiasm of all the inhabitants of this city, ever ready and disposed to bury themselves under the ruins of their edifices, sooner than give themselves up to any other dominion than that of their lawful sovereign.

The pretext which Mr. Beresford makes use of, in alledging that there was a pretended capitulation, your Excellencies will see by the enclosed prints, is without foundation, and it only remains with me, conformably to the laws of war, to reclaim those two prisoners; and I trust to your integrity that you will order them to be given up; at all events I fulfil my duty in reclaiming them, and the military world will decide on which side justice is.

I do not answer Mr. Beresford, not having any thing to add

to what I now express to your Excellencies; and I have only further to observe, that the determination of the people, as has been represented by their magistrates, is irrevocable; they are resolved to defend themselves to the last extremity, and prepared to make their defence memorable.

Your Excellencies will therefore avoid making any further offers, for be assured that no answer will be returned, and that nothing but force can decide our fate.

God preserve your Excellencies many years.

(Signed) SANTIAGO LINIERS.

To their Excellencies Sir C. Stirling
and Sir S. Achmuty.

Letter from the Cabildo at Buenos Ayres to Admiral Stirling and Sir Samuel Achmuty.

Buenos Ayres, March 2d, 1807.

Although the pretext for menacing this city which you make use of in your letter to our Governor, dated the 26th of the last month, and of which you transmit a copy to the Cabildo for their information, was well founded, (which certainly is not the fact) the humanity shewn by us towards the prisoners taken under the command of Major General Beresford, was not inferior to that which you displayed towards those taken at the capture of Monte Video. If we take a retrospective view of the origin of the present war; if we reflect on the capture which took place during the profound peace, and almost in the sight of Cadiz, in the year 1804, of four frigates which sailed from home filled with passengers and property, certainly this is a motive sufficient why we should not look on your nation with the same consideration that the other civilized European nations merit. It was an act so cruel and atrocious, that history perhaps furnishes nothing similar with, and this opinion the best intentioned of your countrymen have avowed.

The pretended capitulation which Major General Beresford is disposed to profit by, was in fact no capitulation at all. It was a secret agreement drawn up in order to excuse him to his own government. Our general has notified this to him in a public document, and the Major General cannot deny that he surrendered at discretion, in sight of the whole population of this city; nor did he ever attempt to avail himself with us, of this supposed capitulation, in order to prevent his troops from being sent into the interior. It is false that no assistance was given to the prisoners, and that they have been treated with cruelty; this a pretext of Major General Beresford to cover the ignominy of his flight. He affects to forget the inhumanity which he practised towards his prisoners, denying them every assistance and succour unless they would consent to go to England, though many of them were invalids, and most of them had wives and families. Notwithstanding this we treated all the prisoners, and particu-

larly Major General Beresford himself, with every degree of decorum, urbanity, and generosity; and we are persuaded that he was as comfortable as he could have been in his own country. Under this supposition, the truth of which cannot be doubted, surely you have no right or just cause to menace this city as you have done, nor have we any motive whatever to be unfaithful to the most amiable of sovereigns; and we are prepared to spill the last drop of our blood to prove to the world that we are good subjects and true Spaniards, and that we are lovers of humanity, even towards those who off Cape St. Mary, violated it in the manner witnessed by the whole universe.

God preserve you many years.

(Signed)

Martin de Mzaga.

Estwar Villaircuba.

Manuel Mancilla.

Antonio Bixan.

Manuel de Artiz de Basnaldo.

Miguel Fernandio de Aquera.

Joseph Antonio Capacoilla.

Juan Bant. de Gucarte.

Martin de Monasterio.

Bonito de Ygeizias.

To thier Honors Admiral Stirling
and General Achmuty.

The following General Orders were next read :

Head Quarters, Monte Video,
May 18, 1807.

Such horses of the artillery and dragoons as Brigadier General Lumley may point out will, until further orders, be fed at eight pounds of Indian corn per day, if shaken out of the husk, or thirteen of hay or pasto, which they may receive. The Deputy Commissary General will furnish such a proportion of salt as commanding officers of cavalry regiments may require, under the sanction of Brigadier General Lumley, for the troop horses. The General Court Martial, of which Lieutenant Colonel Sir Edward Butler is president, will assemble to-morrow morning at ten o'clock, in the officers' mess-room of the 87th regiment.

Head Quarters, Monte Video,
May 21, 1807.

The working parties will, till further orders, consist of one subaltern, one serjeant, one corporal, one drummer, and twenty men. The Commander of the Forces, in consideration of the more material service which he trusts, in a few days, the army will be employed in, thinks it adviseable to lessen the number of men employed upon the works, with a view of giving commanding officers the greater facility in bringing for-

ward their respective regiments in strength and discipline, and it is to be clearly understood by all ranks of persons, that at a period like the present, drunkenness must be considered a crime of the blackest nature, inasmuch as it decidedly renders an army unfit for service at a time when thoughts and deeds should equally contribute to the honour and welfare of our king and country. The Commander of the Forces, therefore, hopes it will be clearly understood, that he expects every possible zeal on the part of officers to prevent, and thereby to render punishment unnecessary for this crime; and promises, that incorrigible subjects, after this admonition, are not to look for mercy; for the brutal drunkenness, which at this moment disgraces the army, must and shall be checked.

Head Quarters, Monte Video,
May 25, 1807.

From the state of the country, from whence a greater supply of horses for the use of the cavalry was expected, there is a deficiency in mounting a sufficient number of men of the horse artillery and cavalry for the service upon which the army is about to be employed; and as the General Officers and Staff, from the difficulty of procuring sufficient tonnage, also are obliged to confine themselves to a single horse, none others can of course be taken. The Commander of the Forces, therefore, trusts to the liberality of officers to preserve their horses for the public use, and promises, that a fair remuneration shall be made for them, and in the mean time a ration shall be allowed for each horse, so as to accommodate officers with respect to the expense; and it is intended also to allow them the use of their horses till the moment the public service requires them.

Estimates to be sent in to the Paymaster General to the 24th instant, for the pay of the army.

Head Quarters, Monte Video,
May 31, 1807.

Commanding Officers of cavalry regiments having now received an authority to recruit horses, the Commander of the Forces has no doubt that the utmost exertion will be used on their parts, and that of the officers under their command, towards rendering this necessary branch of the army efficient, and capable of sustaining the service that may be required of it for the attaining of these objects. It is essential, that the same attention should be paid to the stable arrangements that has been usual in England. The commanding officers of regiments are required to give in to Brigadier General Lumley a weekly report of the state of the horses, specifying their progressive improvement, in order that the same may be submitted to the Commander of the Forces.

The Commander of the Forces calls the attention of the commanding officers of regiments to the order of the 17th instant, and desires that no soldier may be seen with linen pantaloons without flannel under them.

Head Quarters, Monte Video,
June 6, 1807.

In consequence of the excessive duty and bad appearance of the men appointed pioneers, the Commander of the Forces directs, that no particular class of men are in future employed exclusive to that duty, but that it shall be retained as a punishment for small regimental delinquencies; from which source should not a sufficient number of men be derived, the rest are to be daily furnished to the quarter-master according to the rota for fatigue duty.

The following horses will be allowed to embark:

The commander-in-chief, and staff	-	-	-	18
Major-general, and staff	-	-	-	6
Officers commanding brigades, and staff	-	-	-	4
Deputy adjutant-general, and staff	-	-	-	6
Deputy quarter-master general, and staff	-	-	-	6
Deputy commissary general, and staff	-	-	-	6
Medical Staff	-	-	-	10
Commanding officers of regiments, each	-	-	-	1

The horses of officers commanding regiments, and the medical staff, will be at the Mole at seven o'clock to-morrow morning, ready for embarkation; and such horses as can be spared by the other officers or departments.

Head Quarters, Monte Video,
June 11, 1807.

The Commander of the Forces is extremely desirous, that the baggage of the army should be so far reduced in quantity, as to enable regiments to move with the greatest possible facility. A board of general and field officers will therefore assemble at ten o'clock to-morrow morning, to consider and report upon the precise quantity of baggage which may fairly be considered as belonging to the public, and absolutely necessary to the wants of the service in which we are engaged. The Board to consist of the following officers:

Major General Leveson Gower, President.
 Brigadier General Sir Samuel Achmuty.
 Brigadier General Lumley.
 Colonel Browne.
 Colonel Mahon.
 Lieutenant Colonel Lloyd.
 Lieutenant Colonel Sir Edward Butler.

It is to be understood, that the regulations in this respect, by which regiments were governed in England, can have no reference to what the public service of the country may require; for it cannot be expected that, upon the sudden move of a regiment, the Commander of the Forces is to become the store-keeper of its baggage; and a moment's consideration will be sufficient to impress upon the minds of officers the sense and propriety of assimilating our wants, as well as our actions, to the nature of the service in which we are engaged.

The Commander of the Forces holds commanding officers of regiments responsible for the most exact compliance with the general orders of the 3d instant, which forbids the use of boxes for individual non-commissioned officers and soldiers.

Adjourned to to-morrow morning ten o'clock.

THIRTY-FIRST DAY.

TUESDAY, MARCH 15, 1808.

*The following General Orders were read.*Head Quarters, Ensanada de Barragon,
June 28, 1807.

The army will be in readiness to advance at a moment's notice; the necessary arrangements will be made by the Commissariate department for provisions for the troops on their march; and the General directs, that neither cattle or other species of property may be taken from the inhabitants by any individual, without first paying for it. The commander of the forces takes this opportunity of cautioning the army against plundering, being determined to punish with the utmost severity all that may be found doing so.

Heights above Ensanada de Barragon,
June 30, 1807.

The Commissary General will take care that one of his department is sent forwards with each body of the army: he will fix his quarters as near as possible to the officer commanding, and consider himself responsible for every possible exertion being used to obtain without delay the necessary supplies for the troops. General Officers commanding the brigades will be pleased to give directions, that all officers remain upon the ground occupied by their men in the situation pointed out for each rank, according to the regular order of encampment. The commander of the forces takes the earliest opportunity to return his best thanks for the active and spirited conduct evinced by the 38th and 87th regiments, in dragging on the guns through the difficulties of yesterday's march, which he will not fail to represent to his Majesty.

One hour after the position for the day is taken up, brigade majors are to attend at head-quarters to receive the general orders for the day.

Some officers' servants having been seen straggling on the line of march, the General holds commanding officers of regiments responsible, that no individual belonging to the respective corps be allowed to proceed, except in his proper place in column, or under the protection of an armed power.

Head Quarters, Camp, July 2, 1807.

The Commander of the Forces relies upon the zeal and spirit of the troops he has the honour to command, to enable them to bear, like British soldiers, the unavoidable privations attendant on the present service. Every measure has been taken to procure a supply of bread and spirits from the shipping; but the men must themselves be aware, from the difficulties they

have encountered from the march of to-day, how uncertain it must be whether this refreshment is conveyed to them.

The troops will this evening cook two days provisions, to carry with them on the march to-morrow; and commanding officers of regiments are held responsible for a strict compliance with this order.

Lieutenant Colonel BOURKE called in again.

Examined by General Whitelocke.

Q. Are you acquainted with the hand-writing of General Gower?

A. I think I am.

Q. Is that his hand-writing?

A. To the best of my belief it is.

Q. Will you look at these different papers, whether they are all in General Gower's hand-writing?

A. I believe they are.

Q. Do you mean to include the hand-writing upon the sketch?

A. I think so.

Q. There are two sketches—do you mean both?

A. Upon both.

General Whitelocke—I should wish to have those letters read.

Letter from Major-Gen. Gower to Lieut.-Gen. Whitelocke.

Heights above Barragon,
June 28th, 1807.

SIR,

I HAVE the honour to report the arrival of the advance of the army on the heights, after a most fatiguing march of five miles, through deep swamps, which a little more rain would certainly render impassible. I have occupied four estancias along the breast of the hill, in the following order, from the left.

38th, 87th light battalions, 95th.

There will be little cover for the men; but wood to make them all fires; and we shall be able to get them some beef to broil.

The master of one estancia is here, who left Buenos Ayres yesterday; he says, all the force is concentrated in the town with an advanced post of 200 men at Quilmes, he describes their number as six thousand, variously armed.

When they can get up some spirits would be acceptable.

I have the honour to be, &c.

Lieutenant-General Whitelocke. J. LEVESON GOWER.

I must apologise for my paper, Captain Maxwell is gone away with mine, giving orders.

J. L. G.

Heights above Barragon, 29th June, 1807.
half past 10, A. M.

SIR,

I HAVE the honour to state to you, for the information of the commander-in-chief, that I will keep the advance ready to move, whenever he may arrive with the rest of the army on the heights, on the road to the westward, as there appear to be some estancias in that direction, which promise to afford some cover. There are bullocks in this neighbourhood; but I have no lasso men; if we can shoot any near that they can be applied to the use of the army it shall be done.

The houses afford but little means of cooking, so little, indeed, as not to affect the men generally.

I believe it will be impossible to supply the troops with meat in such a way, (without the assistance of the commissary), as to save the meat.

I have the honour to be, &c.

Lieut.-Col. Torrens,
&c. &c. &c.

J. LEVESON GOWER,
Major-General.

Letter from Major-General Gower to Lieutenant-Colonel Torrens.

Three quarters past 2 o'clock, P. M.

Estancith a Don Rodriguez,

June 30th, 1807.

SIR,

I HAVE the honour to report to you for the information of the commander-in-chief, that I have found it impossible to make the advance I expected to be able to accomplish when I left you; I have been actuated by three reasons, 1st, the lateness of the hour, 2dly, the fatigued state of the men, having no spirits to give them, 3dly, there having appeared in front of the advanced rifle post, five Spanish officers dressed alike, by which I am induced to believe, that a force is in my front, and I would rather the men should meet it to-morrow morning when fresh, and supplied with a good supper, which, I hope, we shall accomplish for them from the bullocks. I have decided, therefore, for the night to occupy posts in your front; and will march if it meets with General Whitelocke's approbation, to-morrow morning at eight o'clock for Reduction, with Brigadier-General Craufurd's brigade, 36th, 88th regiments, four three, and four six-pounders.

If the General approves of this, it will be unnecessary to send the escort as proposed at eight o'clock to-morrow.

I await his orders at the post of the 36th regiment.

I have the honour to be, &c.

Lieut.-Col. Torrens,
&c. &c. &c.

J. LEVESON GOWER
Major-General.

Letter from Major-General Gower to Lieutenant-Colonel Torrens.

Heights above the Chieulo, July 1, 1807
3 o'clock, P. M.

SIR,

I HAVE the honour to report to you that the advanced corps have arrived on the heights between the village of Reduction and the bridge over the Chieulo, and that it is now seven miles from the bridge over the Chieulo: I shall continue to advance

and get close down to the river side immediately ; and, if I can, get over it, or, at least, ascertain the possibility of doing it.

There is the appearance of the remains of a camp and work at Reduction ; but the enemy made so faint a resistance that we have lost no men.

I see nothing that can stop us, and if we cannot be supplied from our own, I hope the rapidity of our advance will put some of the enemy's stores into our possession.

I have the honour to be,

Lieut.-Col. Torrens,
&c. &c. &c.

Sir, your obedient humble servant,

J. LEVESON GOWER,
Major-General.

Having submitted to the commandant of the forces your note of this date, I am directed to acquaint you, that he will await here further information from you to regulate his future movements.

Heights above the Chieulo, July 1, 1807,
5 o'clock.

SIR,

I HAVE the honour to represent to you, that since I wrote my former report, I have discovered that the ground between my present position and the Chieulo is very damp ; and, therefore, apprehensive that the health of the men might suffer if kept all night on without firing, I have determined to remain in my present position till I receive your further orders.

We command all the ground to the east of the Chieulo, and are very well posted. Two ships are on fire in the roads, some more are moving into the Chieulo ; the bridge over the Chieulo appears to be on fire. A few mounted men are in my front, but I have not yet seen any force of any consequence.

I have the honour to be,

Lieut.-Col. Torrens,
&c &c. &c.

Sir, your obedient humble servant,

J. LEVESON GOWER,
Major-General.

I have kept sufficient sheep to supply both my brigades.

J. L. G.

Heights above the Chieulo,
July 2d, 1807.

SIR,

I HAVE the honour to report to you, for the information of Lieutenant-General Whitelocke, that I propose to march at nine o'clock precisely, from my left with the intention of keeping the high ground on this side of the Chieulo, till I can either find a ford which is certainly practicable, or turn the head of the river.

I have been induced to do this because the bridge is probably burnt and the certainty of the goodness of the pass of Chico being very doubtful ; should the latter prove bad on experiment, I should have to increase my distance considerably ; and from the

swampy appearance of the ground, a few yards from this bank of the Chieulo, be obliged to march with the flank of my column exposed to the cannonade from the opposite bank.

I have the honour to be, &c.

Lieut.-Col. Torrens,
&c. &c. &c.

J. LEVESON GOWER,
Major-General.

Corral de Masserala,
July 2, 1807.

SIR,

I HAD the honour to report to you, for the information of the commander of the forces, that the advanced corps of the army now occupy a position, the centre of which is across the prolongation of the centre street of Buenos Ayres. I have taken most of the cattle intended for the consumption of the city for this day, and occupy the principal corral. I have secured 20,000 lbs. of biscuit, and my corps is fully supplied with it; spirits I am searching for, and I have hopes that I shall be able to procure some, to what extent I do not yet know. I sent to report to you, yesterday evening, immediately after the action, in which I stated, we had taken eight pieces of cannon, I now find it increased to ten, many prisoners, and a great quantity of arms and ammunition. General Liniers and Colonel Ellio were both present. Supposing that a considerable impression may have been made by so complete a defeat as this considerable portion of their force has sustained, I have sent in a summons to General Liniers, at first verbally only, to discover how they appeared to feel in the town. Colonel Ellio met Brigadier-Major Roche, who went with the flag, and requested that they might receive a written proposal. I have now, therefore, sent one founded on the instructions I received yesterday by Colonel Bourke.

I believe it will not be difficult to, nearly, if not entirely, invest the town by placing about 1,000 men on my right towards the Chieulo, and all the rest on my left towards the Recoleta, having that in the rear. The centre of the town makes a salient angle, it appears to me therefore, that our centre should be a little refused, and our flanks thrown forward, as the right will be rested on the Chieulo, and the left secured by the Plata; but this of course must be regulated by the better judgment of the commander of the forces.

I have the honour to be, &c.

Lieut.-Col. Torrens,
&c. &c. &c.

J. LEVESON GOWER,
Major-General.

I was so surrounded both on my march, and when here last night, by strong mounted parties of the enemy that I could only communicate with you by liberating a Portuguese prisoner, and promising a reward on the delivery of the letter; this, ill as I can afford it, I must send under the protection of a large portion of a light company; I have not yet collected my returns, I believe eight officers are wanted.

J. L. G.

Q. Were you present when General Gower examined his guides, before he wrote his letter, on the morning of the 2d of July ; and state the result of that examination ?

A. I was present at that examination, and the result was this—that the guide having expressed a great deal of uncertainty as to the state of the Passo Chico, the General seemed determined not to move to the Passo Chico, but to endeavour to find some more practicable ford higher up.

Q. Was the letter written after that examination ?

A. It was.

Q. Did you report to me, on your return from General Gower, the purport of the examination of General Gower's guides ?

A. I did.

Q. Could any separation of the advanced and main divisions of the army have taken place, if General Gower had marched according to the route pointed out in his letter ;—and state what, in your opinion, would have been the relative situation of the advanced and main divisions on that day, if he had so marched ?

A. If General Gower had kept along the heights, I do not think that any separation could possibly have taken place, because as soon as the main body had crossed the Arroyo de Masiel, it was upon those heights, which were not above two or three miles in breadth ; and if General Gower's corps had kept on along those heights, the main body would have fallen in at a short distance in his rear.

Q. Does your answer apply to the high ground mentioned in the letter ?

A. It does. It applies to the heights above the Rio Chiculo.

Q. Would not the advanced and main divisions in that case, have crossed at the same ford ?

A. They would have been upon the same line of march ; and if the rate of marching had been at all equal they must have been pretty close together.

Q. Did you report to me the circumstance of General Gower's division moving in a direction from us, before I crossed the Arroyo de Masiel ?

A. I did not. I thought I saw Colonel Torrens pointing it out to General Whitelocke.

Q. Did you, even then, suppose that any separation would take place ?

A. I did not ; because on mentioning the circumstance to the guide he informed me that, when we had crossed the Arroyo de Masiel, we should move in the same direction also.

Q. From your knowledge of the country in which we were to act, and the enemy to which we were to be opposed, do you think it would have been expedient to have taken less infantry and more cavalry, it being impossible to increase one but at the expence of the other ?

A. Considering the service upon which we were to be employed, and the sort of cavalry which we could have procured, I do not think it would have been by any means expedient.

Q. Did I ever give you any orders to inform Mr. Bullock, the Commissary General, that the landing was to take place within five or six miles of Buenos Ayres ; and did you ever inform him to that effect ?

A. I never received any orders to acquaint Mr. Bullock with the landing place, nor to make any arrangements with him whatever, relating to the expedition to Buenos Ayres, excepting to appropriate a transport for the conveyance of some mules and carts. I certainly never told Mr. Bullock that the landing was to take place within five or six miles of Buenos Ayres. I remember to have told Mr. Bullock that the landing would take

place within four or five miles of a village, into which I recommended him to detach an assistant, and some lasso men, to take possession of whatever stock it might be found to contain. Beyond this, I do not remember to have had any communication with Mr. Bullock respecting the expedition to Buenos Ayres, previously to the landing.

Q. Did you ever inform Mr. Bullock that the British troops would be in possession of Buenos Ayres in three days after they landed?

A. To the best of my belief I never did.

Q. Did you ever state it to Mr. Bullock as your opinion, that the army would re-embark immediately after it landed?

A. Certainly not.

Q. It being my intention to land with three days provision, and to take three more from the navy, at Reduction, do you imagine that any particular previous arrangements with the Commissary General were necessary to the success of the expedition, in addition to that already made at Monte Video, before his arrival, and the subsequent order for embarking mules and carts?

A. I do not think that any further arrangements were necessary to carry those intentions into effect.

Q. Were there not lasso men with the advanced division of the army, and were they not successful in procuring cattle. State your means of knowledge upon that subject?

A. On the morning of the 1st of July, when the main body of the army joined the advanced corps, I saw a crowd full of bullocks, which I understood had been driven in by the lasso men, attached to that division.

Q. From whom did you understand that?

A. I really cannot exactly say at this time. I saw the bullocks, and heard they were driven in by

the lasso men. I cannot exactly say from whom I heard it.

Q. Did you ever hear that the army sustained any real inconvenience from want of provisions?

A. I did not.

Q. The time of my receiving General Liniers' letter seems not to have been clearly fixed. I wish therefore to ask Lieutenant Colonel Bourke—At what time were you sent for by me to the Corral, to see the letter from General Liniers?

A. About half past seven.

Judge Advocate.—I have no questions whatever to ask Colonel Bourke.

Examined by the Court.

Q. Did you understand from General Gower's letter, and did you, at the time you delivered it, give General Whitelocke to understand that General Gower would not attempt to cross the river at the Chico ford?

A. I understood, at the time that the conversation passed between General Gower and the guides, that he did not mean to try to pass at the Passo Chico; and, to the best of my belief, I reported that circumstance, and nearly the whole of the conversation, to General Whitelocke.

General Dundas.—Was it in consequence of the report from Major General Gower, that the main body of the army found it necessary to alter the direction of its march on the 2d of July?

A. I cannot say whether it was in consequence of that report or not, that the route was so altered.

General Norton.—What advantage was the main body to derive from deviating from the route of the advanced corps?

A. It shortened its distance considerably, moving as it did, with a view to pass the river higher up than the Passo Chico, at least such was the expectation formed from the account of the guides.

If the Court does not completely understand that, I think I could explain it more fully by a reference to the map.

Lieutenant Colonel Bourke pointed out the route on the map, to the Members of the Court.

General Dundas.—Was all idea of passing at the Chico totally abandoned ?

Sir John Moore.—The letter does not say so.

General Dundas.—It appears to me, from the letter, that he had abandoned all idea of passing the Chico.

General Whitelocke.—I should be obliged to the Court if they would ask Colonel Bourke what was his opinion of General Gower's intention.

Judge Advocate.—Did you understand, from the communication you had with Major General Gower on the morning of the 2d of July, that it was his intention not to attempt to cross the river at the Passo Chico ?

A. From the communication with the guides, at which I was present, I certainly did ; but I do not remember to have heard General Gower say so in express terms.

Q. Did you state that to be your opinion to General Whitelocke ?

A. I think I did.

Sir John Moore.—Did you consider it to be General Gower's intention not to pass the Passo Chico, at all events, even should he be afterwards informed that the Passo Chico was practicable ?

A. By no means. I conceived that his reason for not marching to the Passo Chico, was on account of the apprehensions expressed by the guide, that it might be found impracticable.

Judge Advocate.—I will read a paper, put into my hand by General Whitelocke, which is an observation upon General Gower's letter of the 2d of

July. Lieutenant General Whitelocke requests permission to point the attention of the Court to the words of the letter; the first part says he will march to find a ford *certainly* practicable; the guides had just been saying *the Passo Chico was not certainly practicable*. The whole of the latter part of the letter is General Gower's reason for not trying the passage, as if it *should*; he does not use the word *shall*, but excludes it altogether in the first part of the letter, and assigns his reasons for doing so in the latter part of the letter.

Judge Advocate—General Whitelocke produces a letter from Sir Adam Williamson to the Right Hon. Henry Dundas, dated Jamaica, 2d of March, 1794.

SIR,

King's House, 2d March, 1794.

Having always in view the attack on Port au Prince, (now the capital of the west and southern provinces) it was judged necessary that the post at L'Acul, about six miles from Leogane, at the extremity of the plain of Leogane, should be first taken. From this post the brigands frequently made their excursions into the plain and burnt the plantations, and it was intended that (had any expedition been undertaken against Port au Prince without taking Fort L'Acul) they were to have harassed the rear of our troops, and attacked the town of Leogane, and destroyed the remainder of the plantations.

Lieutenant Colonel Whitelocke therefore made a very proper disposition of his troops, and on the night of the 18th, detached two hundred colonial troops with one field piece and some of the British artillery, under the command of Baron Montalembert, who I beg particularly to mention to you as a gallant, zealous, good officer: they were embarked on board two transports, and were to land at five o'clock the next morning.

Lieutenant Colonel Whitelocke marched at four o'clock on the morning of the 19th with the flank companies, artillery, two howitzers, and two field pieces, and about fifty of the colonial troops of all colours.

Captain Vincent with the flank company of the 49th and 120 colonial troops, took a mountain road which led to the opposite flank of the fort, upon which Baron Montalembert was to commence his attack.

Lieutenant Colonel Whitelocke advanced with the main body just within cannon shot of the fort, to co-operate with the Baron and Captain Vincent, but from the mismanagement of one of the transports and an unfavourable wind, the troops could not land.

Lieutenant Colonel Whitelocke drew his artillery back a little, which the enemy perceiving, a very heavy fire of musquetry commenced from a wood on their right, which was instantly silenced by a corps commanded by Major Spencer. All this time four guns fired incessantly from the fort, but fortunately did very little execution.

Lieutenant Colonel Whitelocke finding that he could not have any assistance from the troops that were embarked, determined at once to storm the port; he ordered some refreshment for the men, and sent away the howitzers.

About half past four P. M. Major Spencer was ordered with two flank companies to join Captain Vincent, to advance and fire on the fort, which he accordingly did to a signal given, and Lieutenant Colonel Whitelocke advanced in front, under the fire of two guns loaded with grape and a heavy fire of musquetry: they ascended the hill, which was rendered as difficult as possible by trees placed in all directions, gallantly pushed on with their bayonets, and drove the enemy from their ranks.

Many of the enemy were killed, and had the corps under Baron Montalembert been landed, not a man would have escaped.

The garrison was supposed to consist of about six hundred men, commanded by a white man of the name of De Lisle, who had served in the late king's time, and is said to have murdered, or caused to be murdered, near three hundred white persons.

Lieutenant Colonel Whitelocke speaks in the highest terms of both officers and men, and particularly of Major Spencer, Capt. Smith of the royal artillery, and Lieut. M'Kewan of the engineers.

I have the honour to send herewith returns of store, and of the killed and wounded; and I have to lament the death of Captain Morshead, who gallantly entered the work, and was blown up by a quantity of combustible matter, which was set fire to by one of the brigands, who also perished in the explosion. Captain Morshead had received a wound in the body before, but that did not prevent his going on. The attack was so spirited, that the garrison had not time to carry off any thing, and many late letters of Monbrun and Santhonax were found, a few extracts of which I herewith send; the originals were sent to the commodore, who is before Port-au-Prince, as they relate to that situation.

Immediately after the capture of Fort L'Acul, the parish of Grand Goave surrendered to the British Government; the English colours were hoisted, and the inhabitants took the oaths of allegiance.

Fort L'Acul was too far from the sea, for his Majesty's squadron to be of any use.

The next object for attack is Fort Bizzaton, about three miles from Port-au-Prince, near the sea, and against which the navy can operate with great advantage. Some measures were probably taken to attack it about the 27th or 28th of last month.

By the state of the troops under the command of Lieutenant Colonel Whitelocke, you will perceive, Sir, what we have done, and are still attempting to do, with a handful of men.

I have heard nothing of the two regiments from Ireland.

The island of St. Domingo, if secured to Great Britain, will, for many years to come, require a considerable force to keep every thing quiet, at least five or six thousand men, and which the island will be very well able to pay.

I am very sorry to inform you, that his Majesty's ship *Convert*, that sailed with the homeward-bound fleet, the 3d February, and nine of the merchant ships, were lost the 8th, on the reefs off the Grand Cayman; the vessels entirely gone, but only five or six drunken fellows drowned.—Every thing here remains quiet.

I have the honour to be, &c.

Rt. Hon. Henry Dundas.

A. WILLIAMSON.

Extract of a letter from the Right Hon. Henry Dundas to Sir Adam Williamson.

SIR,

Whitehall, April 28, 1794.

On the 16th inst. I had the pleasure to receive, and immediately to lay before the King your letter of the 2d of March last, giving an account of the capture of Fort L'Acul, and the surrender of the parish of Goave to his Majesty.

I am to desire, that you will not fail, on this occasion, to signify to Lieutenant Colonel Whitelocke his Majesty's most perfect and entire approbation of his conduct, and of the gallant behaviour of the officers, and the small detachment under his command, in taking by storm the fort of L'Acul, under the great disadvantages with which that service was performed.

The bravery shewn by Captain Morshead, during the action, is an additional cause for lamenting the loss of that officer.

The high character you give of the Baron De Montalembert, both as a man and an officer, confirms the opinion I have always continued to entertain of that gentleman; and I have no doubt, if his corps had been able to co-operate with Lieutenant Colonel Whitelocke, as was intended, that it would have done itself great credit. I am the more anxious that the Baron should be acquainted with my sentiments on this occasion, as I have been under the necessity of suppressing his name in publishing your account of this action, solely from an apprehension that his family connections, now in France, might suffer by his appearing actively employed in his Majesty's service.

I am, &c.

Lieut.-Governor Williamson.

HENRY DUNDAS.

Extract from a letter from the Right Hon. Henry Dundas to Brigadier General Whyte, or the Officer commanding the troops at St. Domingo.

SIR,

Whitehall, July 19, 1794.

By the Duke of Cumberland packet, which arrived on the 13th instant, I was favoured with your letter of the 22d May, informing me of your arrival at St. Domingo, with the force therein-mentioned; and that, after taking the necessary measures for the security of Tiburoon Bay and Cape Nicola Mole, you had re-embarked with a part of the force under your command, for the purpose of attacking Port-au-Prince.

This morning Lieutenant Colonel Whitelocke brought me your letter of the 8th last month, by which I have the satisfaction to find that you have had the good fortune to succeed in the reduction of that important place. I have laid both your letters before the King, and I have it in command from his Majesty to signify to you his Majesty's gracious and full approbation of your proceedings, and of the gallant behaviour of Lieutenant Colonel Whitelocke, Major Spencer, and the rest of the officers and men who were employed on this occasion. I am, Sir,

Your most obedient humble servant,
Brigadier General Whyte. HENRY DUNDAS.

Judge Advocate—This is the copy of a letter from Major General Spencer to Lieutenant General Whitelocke, dated Portsmouth, December 15, 1807. I ought to observe to the Court, that these letters, strictly speaking, are not legal evidence; and I think it right to make that observation;—at the same time, as conducting this prosecution, I do not make the slightest objection to their being produced.

MY DEAR GENERAL, Portsmouth, Dec. 15, 1807.

It grieves me more seriously than I can possibly describe, to think that *you* should find it necessary for *me* to give this testimony of your conduct during the time I had the pleasure of serving under you in St. Domingo; but as it is a thing that you conceive expedient and proper, I have great satisfaction in openly avowing that your conduct, during the time we served together, was what I always admired, and what I thought shewed decision, judgment, and proper firm conduct in the field.

In saying this, I beg leave to recal to your recollection the acknowledgment the officers of the 13th regiment, and myself, took the liberty of making, by addressing you in a letter of thanks, expressing every thing which was handsome, and becoming for almost any officer to receive, and their great regret at your leaving St. Domingo.

Believe me, my dear General,

Your's, very faithfully and sincerely,

(Signed)

B. SPENCER.

Lieutenant General Whitelocke.

SIR,

Port-au-Prince, June 8, 1794.

Being favoured with your letter, expressing your thanks for the conduct of the officers who served under your command in St. Domingo,

We return you our warm and cordial thanks for the handsome manner in which you have expressed your approbation of our conduct, and with real esteem and sincerity beg leave to express our feelings on the present occasion.

We congratulate you, Sir, upon the possession of so valuable a colony with so little loss; and, considering the smallness of the

force, the unavoidable sickness of the troops, the number of places to be defended, and the enemies of all kinds to be encountered, we can ascribe our success to your conduct and vigilance alone; and sorry as we are to lose you, we entertain a hope, that your active and zealous services in this country will meet with the reward they merit, and we are convinced will be honoured with his Majesty's approbation.

We have only one more word to add,—that, as we have already served with unanimity and confidence of success hitherto, we trust that hereafter we may meet again, and again succeed under the command of an officer, who carries with him such universal approbation, and so well-earned applause.

I have the honour to be, SIR,

(In the name of the Army that served under your command
in St. Domingo)

Your obliged and very humble servant,

(Signed) B. SPENCER, Lieutenant Colonel.

Lieutenant Colonel Whitelocke, &c. &c.

Lieutenant General JOHN WHYTE sworn.

Examined by General Whitelocke.

Q. How long have you known me?

A. Since the year 1794.

Q. When, and on what occasion, did our acquaintance commence?

A. I was ordered by the late Lord Grey to go down with a reinforcement from Martinique, after the capture of Martinique, to St. Domingo, where I met General Whitelocke in the command of the island of St. Domingo.

Q. What was the first military operation in which I was engaged under your command?

A. Against Port-au-Prince.

Q. State your opinion of my conduct and character as an officer, while under your command.

A. When I went upon the attack of Port-au-Prince, Lieutenant General Whitelocke (then Lieutenant Colonel Whitelocke) was employed as Quarter Master General, without pay or emolument; in which capacity he acted conditionally, that he should lead the principal column of attack against Fort Elet, which commanded the centre of Port-au-Prince, which he did with the greatest gallantry.

General Whitelocke.—Mr. President, and Gentlemen of the Court, here I close my evidence: it only remains for me, to thank the Court for their patient attention to my defence. I am satisfied, that no prejudices can operate here to my disadvantage; and that my errors, whatever they may have been, will be considered by the Court with impartiality, with candor, and, if it be necessary, even with indulgence: To their judgment, I submit my honor, and character, and every thing dear to me in life.

Judge Advocate.—Sir William Meadows, and General Officers of this Court Martial, Though the unprecedented length of General Whitelocke's defence, yesterday, might, perhaps, according to the usage of Courts Martial, entitle me to claim some time for consideration on the arguments he had adduced, yet I am desirous of waving any claim I might have of that kind, from the anxiety which I feel on the one hand, that any observations, which I may have to make on that defence, may be made while it is yet fresh in your recollection; and, from the certainty I have, on the other hand, that the case which has been made out in support of those charges, whatever it may be, is untouched by any evidence which General Whitelocke has brought forward. I am sorry, however, that, before I come to those charges, I must take notice of some very unexpected observations which have fallen from General Whitelocke, in the course of his defence, complaining of the conduct which I have pursued in this prosecution. If he thinks he has a right to complain, I cannot, on my part, regret that he has done so; but I am called upon to an-

swer those complaints, not only in vindication of myself, but, in some degree, likewise, in vindication of the Court, who were bound, and whose duty it was to interfere, if there was any thing in my conduct to justify the comments which General Whitelocke has made, not only in respect of your own rank and experience in the service, but with a view to the interests of the army, and from a regard to the security of the lives and characters of the officers who might be called upon, in future, to answer in proceedings of this nature.

The first complaint, in point of order, which he has made, I believe is this, that, in the opening of the charges, I stated to the Court the grounds upon which it had been found necessary, by his Majesty's Ministers, to institute this proceeding. I thought it necessary to explain to the Court, the difficulties they would have to encounter, in consequence of no private prosecutor coming forward. From the conduct of the prosecution devolving upon me, who, of course, must be completely unacquainted with the nature of military operations; who had no means of knowing, previously, what the facts were which each witness could ascertain; in stating the reasons which had led his Majesty's Ministers to disregard these disadvantages, or to feel it to be their indispensable duty to the Public to institute these proceedings, it was not my fault, if those grounds were strong. Whether, in doing so, I did, as he imputes to me, endeavour to inflame any popular prejudices against him, it is not for me to judge; but, I must beg leave to observe, that if that had been my object, which it was not, the materials were not wanting. I must remind the Court, that I did go out of my way to give a caution, very unnecessary, as far as the Court was concerned, against being led away by any popular prejudices upon the subject. I implored them to look to the evidence only; and, upon that point, I shall leave it to

the Court to consider, how far General Whitelocke has a right to complain of the conduct I pursued.

The next point which he complains of is, that officers have been called to give narratives, and that, in consequence of those narratives, much illegal evidence has been brought before the Court. It has always been matter of regret to me, that in consequence of the proceedings being to be carried on by a person who had no previous means of knowing what each witness was able to prove, except on one particular point, which I shall be under the necessity of stating to the Court presently, it should have been necessary (in which the Court were of the same opinion) that the different witnesses should be called upon to state what they knew, in respect of every part of the subject, in order that the whole case might be laid before the Court, for them to judge of it; because it led to the introduction of much irrelevant matter, and greatly protracted the length of this trial. If, in the course of that proceeding, any illegal evidence has crept in, it has not been from the want of all the caution I have been able to use to prevent it. That it is possible, that in some of those narratives, which have run into extraneous matter, which have been given by officers, of course unacquainted with legal forms, some evidences of this kind may have been admitted, I will not undertake to say; though I protest, I am aware only of one instance of the kind which may be considered, strictly speaking, illegal; all I know is, that whenever I perceived that officers were stating evidence of that nature, I always interfere; and, except in that one instance, which I think took place in Colonel Duff's evidence, who stated a conversation which he had with a Major Ironmonger, which conversation, when first given, I conceived to be a report, and therefore admitted, intending to call Major Ironmonger afterwards, to confirm it, if the facts bore on the case. But

the Court seemed to think that unnecessary, inasmuch as the fact stated did not, in their opinion, apply to the case they were considering. I did not, therefore, call Major Ironmonger; and yet the former conversation remains on the minutes. Except in that one case, I am not aware, that, in the whole of these narratives, there has been any illegal evidence introduced, though much irrelevant matter has, of necessity, from the mode of proceeding, which it was impossible to avoid, been entered upon the minutes. But I am certain, that there is no one point, material to the innocence or guilt of General Whitelocke, which is not proved by evidence most strictly legal. I am now speaking of the facts, without presuming to state what inference the Court is likely to draw from them.

Then General Whitelocke complains, that, in consequence of my conduct, he has been deprived of my assistance. I do not know what assistance I could have afforded, had this proceeding been conducted, as I wish it had been, by any officer connected with that expedition, and I had officiated here merely in the character of Judge Advocate, which he has been deprived of, by the manner in which this prosecution has been conducted: the only assistance which it is in the power of the Judge Advocate to give is, in any case, on the one hand, by shaping any questions, which the party accused has to put, in legal form; by solving any difficulty as to the relevancy of the facts adduced, either by the prosecutor or by himself; and, taking care, on the other, that no illegal evidence is adduced against him. With regard to the first points, the able assistance which he has had, professional and otherwise, made it impossible for me to give him any assistance of that nature; and, with respect to the other, I have already stated, that he has received all the assistance which, to the best of my judgment, I was able to afford him.

Another complaint is, that, after the charges were delivered to him, other charges, or alterations, were introduced ; with regard to that point, I am persuaded I am speaking in the knowledge of every member of this court. [Here General Whitelocke interfered, to state that he had not made this a ground of complaint]. If General Whitelocke says he did not complain of that, I certainly am ready to take his admission ; at the same time, having mentioned the subject, I think it right to state, that, though it was thought proper to deliver to General Whitelocke the charges as soon as they were decided upon, it is perfectly understood, that, till the King's warrant is signed, there is the power in the crown, or in the party who brings forward the prosecution, to alter those charges. I was not satisfied with its being generally so understood ; but, when I sent those charges to General Whitelocke, I distinctly, and in terms, reserved that power, for fear he should entertain the opinion, that no alterations might be made in them : I sent him word that it was possible, nay, probable, that some additions, or alterations, might be made in the charges already delivered.

Another complaint is, that, opinions have been stated, grounded upon subsequent knowledge. Now, I do remember, that, in one case, a gallant General did submit to the Court, or perhaps to me, whether he ought to state a fact, which he had derived from circumstances arising subsequent to the time when he had given information to Lieutenant General Whitelocke on the subject : that was in the case of Brigadier General Craufurd, who said, that he had known, after he was taken prisoner, that the army of General Liniers, which he had defeated on the 2d, amounted, I think, to 4000 men ; but, it appearing that that fact was not known to General Whitelocke, and could not be known to General Whitelocke at any time when it could influence his conduct, I then

gave, as my opinion, that it could not be received in evidence against him, because he could only be judged according to the information he had received at the time, when his conduct, upon that information, is inquired into. I protest I do not know, (nor has General Whitelocke expressed to what other passage in the evidence his observations apply); I, therefore, must conclude this charge was merely meant to adorn the defence, and stands on no foundation whatever.

I now come to another complaint, which, I am sorry has been made, because it calls upon me to allude to circumstances, that I have not adverted to in the course of this prosecution, and which, out of delicacy to the party accused, I should rather have abstained from altogether. General Whitelocke has stated, that proceedings, novel in our military jurisprudence, however they may be sanctioned by other courts, have been adopted for the purpose, as it should seem, of collecting evidence to convert calumnies against him into matters of charge. If that has been the conduct which I have pursued, I do not deserve to remain in the situation I hold, and, I protest, I was at first perfectly at a loss to understand to what circumstances those observations alluded. I will now state plainly to the Court, I owe it to myself, and I owe it to the Court, to state, what I apprehend those circumstances to be. It so happened, that when I entered upon the office in which I now address you, I found the charges against Lieutenant General Whitelocke prepared, but not decided upon; I found, amongst other charges, the charge of misbehaving before the enemy: I need not state to the Court, that it was a charge of cowardice. Upon considering those charges, it struck me, that, with respect to the others, there was the evidence of the orders and dispatches of General Whitelocke, which, without any additional evidence whatever, or without examining a single witness, were, as I stated

to the Court, abundantly sufficient to justify those charges; but I am not ashamed to own, that I did feel considerable difficulty in bringing my mind up to deliver that charge against any officer, without knowing beforehand, that there was some distinct evidence upon which I could state to the Court that charge was to be supported. I need not remind you of the reports which we have heard; but I did not wish, upon so important a point, to rely upon reports merely; I felt, that, with respect to the other charges, however much they might disgrace him as an officer, they did not disgrace him as a man; but that a charge of so ignominious a nature as cowardice, tending to exclude him altogether from society, was one, which ought not to be brought, without knowing, beforehand, that it rested upon some ground. I considered that the charge of cowardice, when coupled with the particular circumstances of this case, was one, which would never be forgotten, and which would probably cling to him for ever, although he were legally acquitted. In consequence of these feelings, I did submit my thoughts both to the law officers of the crown, and to several members of his Majesty's government; they felt the same doubts and difficulties; we felt, that, with the reports which assailed one at the corner of every street, the country had a right to expect, that, if there was just ground for such a charge, that charge ought to be brought forward; but that, without knowing that there was any other ground than mere report, it was hard upon the party accused. Under these difficulties, I did reluctantly, I acknowledge, forego the determination I had made, of having no communication with any one witness who was to be called in this prosecution, and I resolved upon seeing some of the officers of General Whitelocke's staff; not all, for all were not in town at that time; not as General Whitelocke has stated, "for the purpose, as it should seem, of collecting evidence to

convert those calumnies into matter of charge," but for the purpose of preventing that those calumnies, if calumnies they were, should be brought as matter of charge against Lieutenant General Whitelocke. I need not state to the Court that that was an inquiry which could not be pressed. The result was, that there did not appear to me to be ground upon which I could have stated to the Court, that there was a foundation for that charge; in consequence, the charge was dropt. After this accurate statement of what passed upon that occasion, I will leave it to the Court to decide what ground of complaint General Whitelocke has against me. Whether the delicacy which I felt, and upon which I acted on the subject, may have been misapplied, I will not inquire. He owes me no thanks for it; for it was from no personal feelings towards himself; but it was from the regard which I felt to be due to the character of any officer brought upon his trial; a regard which I am not ashamed to avow, and which I shall never repent having yielded to. So much upon the subject of the accusations which he has thought fit to bring forward against me.

There is, however, another point which just occurs to me, perhaps not less important than any of the other complaints which he has made. In enumerating all the various instances of harsh conduct, which he thinks he has received from me, he says, "still less could I suppose that the protection of the Court would be necessary to prevent the prosecutor, educated in legal habits, from pursuing me, even to my private moments, and requiring my Secretary to state all the conversations, which, in the course of our relative situations, have passed between us; and yet, it is at this point only, and through the interposition of the Court, that the prosecutor has stopped in his inquiries."—Now, Sir, the only answer which I can make to that charge is the most direct and unequivocal denial of the fact stated; and to prove that I do not

make that assertion on slight grounds, I will read the minutes of what passed upon that occasion. A question was put by me to Lieutenant Colonel Torrens.

[The Judge Advocate read an extract from the evidence of Lieutenant Colonel Torrens—*beginning*, “Relate to the Court the conversations which passed between the Lieutenant General and yourself”—*ending*, “the communication of any of the Court, or of General Whitelocke himself upon it.”]

I have now read the evidence upon which that charge against me is founded, and with that I conclude my observations on General Whitelocke's complaints against me. I have to regret that it has happened, as I intimated to you at the outset I feared it would, that, in consequence of my having unavoidably no previous knowledge of what the witnesses had to state, your attention has been not unfrequently diverted to inquiries, which, after much time spent in minute investigation, appeared to have no direct or important bearing upon the real merits of this case.

It would be an ill return for the unwearied and persevering attention which you have uniformly shewn to every part of the voluminous mass of evidence which lies before me, if I were now to take up your time by any recapitulation upon points which appear to me of the description of those to which I have alluded. And I shall abstain from them the more willingly, because, if I should have considered any to be of that description, which would have struck any honourable Member of this Court as more important, I have the satisfaction of knowing that you are all so completely masters of this case, as to be able to correct any defects, or supply any omissions which I may, inadvertently, fall into.

In the first place, I should wish to dispose of the latter part of the first charge, I mean the article in the summons to the town, requiring the surrender of all civil

officers, as prisoners of war, because it is a distinct, independent fact, and is unconnected with any detail of military operations. The fact has been proved, and is likewise admitted. It is charged to have been unusual. If that allegation is not founded, it was for General Whitelocke to have proved the contrary. It was for him to have shewn, that, in all the variety of treaties and capitulations, extant in history, there was a single instance to be found of such a demand being made. He has not produced one solitary precedent to justify it. He has stated, indeed, that the civil authorities of Buenos Ayres were decidedly hostile to the English. I readily admit it. But is Buenos Ayres the only town where the inhabitants have been decidedly attached to their own country, and as decidedly hostile to the enemy's. And yet, if in no case has the commander of an invading army ever offered such a condition to the besieged, surely the absence of all precedent, the silence of all history, is no weak argument against its policy, and its justice. The charge imputes to General Whitelocke, that instead of embracing the opportunity, when he summoned the town, of proclaiming the beneficial views by which his Majesty was actuated in sending so large a force to Buenos Ayres; instead of holding out such favorable terms of capitulation to the Spanish General, the troops, and the inhabitants, as should induce them to oppose no resistance to the British arms, to spare the effusion of blood, he did, on the contrary, insert a condition, which, if the Spanish General was bent upon resistance, he must have wished to receive; because it tended to wound the feelings of every description of the inhabitants, and to rouse one common sentiment of indignation. By that article they were called upon to deliver up every respectable inhabitant to whom they were indebted for the administration of justice, and of the laws, to the discretion

of the conqueror. With that article before their eyes, could they believe that his Majesty had not determined entirely to overturn all their laws and usages; every thing which education and prejudice had rendered sacred, when those persons, without distinction, whom the inhabitants looked up to, with gratitude and respect, as the instruments of conveying to them the benefit of those blessings, were to be consigned over, at once, to military captivity. A stronger incitement to vigorous resistance could not have been applied to any minds. And though I cannot charge General Whitelocke with a disobedience to his instructions, because his instructions apply only to places which are brought into subjection to his Majesty, yet I cannot help observing, how totally he has deviated from the spirit and the letter of those instructions; and how differently he has argued upon them in another part of his dispatch. The instructions state, "that, in whatever part his Majesty's authority shall be established, the greatest care must be taken, and the most earnest endeavours used, to conciliate the good will of the inhabitants, by abstaining from every thing which can shock their religious opinions or prejudices; by respecting their persons and property, by a removal of those restrictions and impositions, of which they most complain, and by making them feel in general the beneficial influence of his Majesty's government, as compared with that under which they were before placed. You will observe that, in his private dispatches, in stating his reasons for abandoning his original intention of bombarding the town, and for having recourse to that unfortunate plan, which forms the subject of the second charge, he says "Besides the measure of bombardment, or any other measure which might occasion an indiscriminate loss of life, ruin the town, and irritate the people, appeared to me, upon reflection, contrary

to both the spirit and letter of my instructions." Now, the bombardment of the town, however much to be regretted on other accounts, might be a necessary measure to effectuate the object of his instructions, which (whether right or wrong, is not now the question) was to take possession of the province; but, if the bombardment of the town, however necessary in other respects, was in his opinion impolitic, and therefore abandoned, because it might tend to irritate the people, surely the proposing terms of unprecedented harshness and rigor in the first instance, as the earnest of what was to be expected in future, as the first specimen of British forbearance and moderation, was to the full as likely to irritate the people and to lead to those extremities which he professes himself desirous of avoiding. But whether this general outline of the grounds upon which it was thought right to submit this part of the charge to your consideration be well founded, or whether you shall think, in respect to the former parts of this charge, that all the preliminary preparations, before the sailing of the expedition, were what a skilful and prudent General would have made, with a view to insure the success of the expedition; that every thing was done to procure a sufficient quantity of cavalry; that it was proper that the Commander of the expedition should have no direct personal communication with his Commissary General, whom I think it is stated he never saw above once, previously to leaving Monte Video; whether you think it was right that Colonia, the only strong post above Monte Video on the left bank of the river, the importance of which has been stated by Sir Samuel Achmuty, should be abandoned and dismantled, although it is proved, by his authority, it might have been maintained by a very small force; whether you shall think that in these, or in the other points which were adduced in evidence upon that part of the charge, all was done that ought

to be done, and nothing omitted but what was unavoidable, I willingly admit that these, on all points of such minute importance, compared to the points to which the second charge applies, that I ought not to take up any part of your time in recapitulating them.

Proceeding, therefore, to the second charge, notwithstanding the time which has been taken up in inquiring into the difficulties the army had to encounter in passing the swamps from Ensanada to the heights, I here again am ready to admit, at least for the sake of the argument, that whatever losses the army sustained in the crossing that swamp were unavoidably incurred, and those points to which the charge refers I shall consider as beginning from the time that the army reached Reduction, except in one or two instances, to which I shall presently advert. The facts I am about to state are facts which have been adduced in evidence on the part of the prosecution, which have not been contradicted by General Whitelocke, and which, therefore, I must consider as established.

It appears that, on the 1st of July, the advanced corps arrived at a position from two to three miles beyond Reduction; on that day that it passed the river, on the 2d, defeated the enemy, and occupied a position before the town the same evening. That the advanced corps occupied this position by the positive orders of General Whitelocke, but that they received no support from that General, nor was it possible from his movement for him to have afforded them any. That the main body, under Lieutenant General Whitelocke, arrived at Reduction on the 1st, and that, early on the morning of the 2d, he ordered Major General Gower to advance, and pass the Chieulo and take up a position near the town, stating that he would support him with the whole of his army. That the main body, upon the 2d, marched under General Whitelocke from Reduction,

about ten o'clock, and that after a march of seven miles, without passing the river, or communicating with the advanced corps, they halted at half past two or three o'clock, near some farm houses, where the troops could be supplied with fuel. It appeared that the troops were able to have marched further. That a cannonade was heard in the evening, in the direction of the town, and that no measures were taken to ascertain the cause of it. That no reconnoissance was made either to ascertain the state of the bridge, or any of the fords. That the main body under Lieutenant General Whitelocke joined the advanced corps near the town about three o'clock on the 3d of July, and took up a position before the town. That the rear guard, under Colonel Mahon, consisting of 1600 men and 200 seamen arrived at Reduction on the 2d of July, and that a communication was opened with the shipping at Point Quilmes. That Colonel Mahon received orders to halt at Reduction till further orders. That he received no further orders till twenty five minutes after ten on the 5th of July, when he received an order by two country men to march to the bridge. That the artillery was sufficiently provided and equipped to keep pace with the movement of the army, and that no considerable delay occurred on that account. That the corps which composed the main body of the army, namely the 38th and 87th regiments, were more competent to march and to bear fatigue than the 36th and 88th, which, with the light brigade, formed the advanced corps. Therefore that the main body might have arrived before the town on the evening of the 2d; that if the main body had arrived before the town on the evening of the 2d and entered the town, the place would have been captured. That fact stands upon the evidence of Major General Gower and Brigadier General Craufurd. They have stated to you their reasons for that opinion. They say that the concurrent testimony

of all the prisoners was, that till twelve or two o'clock, on the 2d of July, the whole force of the enemy and their means of defence had been turned towards the line of the Chieulo and the Plata, and that consequently, the entrance of a body of troops into the town, from the westward side, was by them totally unexpected and unprovided for.

I would wish now to take notice of the sort of defence General Whitelocke has set up, for this separation of the columns, which, if the evidence of Major General Gower and Brigadier General Craufurd is well founded, was fatal to the success of the expedition; and in order to consider not only what his conduct was, but the circumstances under which he acted, it will be necessary to ascertain what information was then received, up to the 2d of July, of the strength of the enemy, and of the state of our own army at that time. The information of the designs of the enemy, as Colonel Bourke states it, was, that he intended to dispute the pass of the Chieulo. General Whitelocke himself, in his public dispatch, says, that "the army, on the 1st of July, reached Reduction, a village about nine miles distant from the bridge over the Rio Chieulo; on the opposite bank of which the enemy had constructed batteries and established a formidable line of defence;" and, in his private dispatch, he says, "that there the enemy intended to make a stand."

It is therefore clear, that, in attempting to turn their flank, which he says was his object, an action was probable, and General Craufurd has told you, that the moment he saw that order to General Gower, upon which so much has been said, he perceived an action could not be avoided. Of the force of the enemy nothing certain was known; but it appeared that, from the best accounts which could be collected, their force amounted to from 6 to 10,000 men. It is in proof that the 36th and

88th regiments, which, with the light brigade, formed the advanced corps, were not in good marching order, and that General Whitelocke had himself observed the exhausted state of those regiments the day before. The Court will next consider what precautions were taken by Lieutenant General Whitelocke to secure the certainty of his being able to support this corps with the main body. In the first place, it appears that the guides were not confronted; it appears that Colonel Bourke, who was sent with that order, which is stated by all the witnesses to have been a peremptory one (except by Brigadier General Craufurd, who says that he read it only once, and cannot remember it with accuracy) was directed to deliver it to General Gower as soon after daylight as possible: and it appears that, at half past eight, when Colonel Bourke was on his return from the advance to Reduction, he met General Whitelocke in advance from the main body, no order having been then given for the march: that immediately afterwards an order was given, and carried by Lieutenant Colonel Torrens, for the 87th regiment to advance: that while Lieutenant Colonel Torrens was absent, in the delivery of that order, another order was given for the whole body to advance, and that that body did advance at ten o'clock. The Court will recollect that the advanced corps marched from a position about three miles in advance of Reduction, it will be for them, therefore, to consider whether the precautions which were taken, admitting General Whitelocke's defence to be true, that it was intended that there should be no separation of the line of march, whether the precautions taken were those which a prudent and skilful general, under all the circumstances of such a case as this, ought to have taken to prevent the possibility of the advanced corps (principally composed of the description of men which you have heard, one regiment of very young men, and both ill fitted for

marching, from long confinement of many months on board transports), and the whole of the advanced corps, consisting only of about two thousand men, being exposed to such an unequal contest with the enemy. After a march of seven miles, the main body halted. I will draw no inference from that halt. It appears that, notwithstanding sufficient and proper measures were not taken to supply the troops with provisions, yet that the troops had bread and meat up to the 30th; that much inconvenience was experienced during the march, from the want of regular provisions, and from the frequent halts, which brought the men so late to their ground, that they could not cook what they had. That they procured cattle and sheep in greater quantities than was necessary for their wants; and that upon the 2d of July bread was found at the Corral for the whole army, for two days. That no communication was kept up with the different divisions of the army, and that the main body of the army marched thirty-one miles in four days. That Major General Gower sent a summons into the town, on the morning of the 3d. That in so doing he acted under the positive orders of Lieutenant General Whitelocke, which were communicated to Lieutenant Colonel Bourke, verbally, by Lieutenant General Whitelocke, but delivered in writing by Lieutenant Colonel Bourke to Major General Gower. I now come to those facts which appear to me to apply to the plan. Upon that plan, as a measure purely military, I shall not presume to offer a single observation, but I shall confine the statement, which I am about to make, to the facts which appear upon the evidence, and which strike me as material to enable the Court to form an opinion upon the merits or demerits of that plan.

It appears that General Whitelocke received information from Mr. White, on the 4th, of the nature of the enemy's defence, and that this information was correct

in all its parts ; that the plan of attack was resolved upon, and given out in orders, without any reconnoissance having been made of the points which the troops were to assault ; that Lieutenant General Whitelocke had not made known, in orders, or otherwise, the station he intended to occupy during the attack ; that no provision was made for retreat, in case of failure ; that none of the general officers, except the second in command, concurred in, or gave any opinion whatever upon the plan ; that General Whitelocke did not consult Colonel Pack upon the nature and situation of the Town, or the plan of attack, before the orders for the attack were issued, although he was the senior officer, who had belonged to the expedition, under General Beresford, and was fully acquainted with the Town, and generally with the environs ; that the Admiral was not consulted upon the plan of attack, or had any knowledge of it ; that gun boats might have assisted in the attack ; and that, on the morning of the 6th, gun boats opened a fire upon the Town, and continued firing till the truce was signed ; that by a movement to the left of the Recolita, a communication might have been opened with the fleet ; that there were provisions at the Corral, on the 4th, to last the whole army for four or five days ; that a single messenger was dispatched, on the evening of the 3d, to Colonel Mahon, at Reduction, with orders to Colonel Mahon, to march, on the 4th, to the bridge, to wait till four o'clock in the evening ; and if he received no orders, to return to Reduction ; that on the evening of the 4th, and after the time when Colonel Mahon must have marched back to Reduction, if he had received and acted upon the former order, which, in point of fact, never reached him : another order was dispatched to Colonel Mahon, at Reduction, and sent by two countrymen, directing him to march to the bridge ; that no reconnoissance was made of the Town, or of the bridge

over the Chieulo ; and that, in consequence of the separation of the columns, the army lost the co-operation of 1800 men, under Colonel Mahon : these are the material facts which the Court have in evidence upon that part of the case.

With respect to the latter part of the third charge, namely, the execution of the plan, it appears, that Lieutenant General Whitelocke ordered the cannon, the signal for the attack, at half-past six ; that the Plaza del Tauros was taken, by Sir Samuel Achmuty, at nine o'clock ; and that a communication was opened with the shipping ; that from six to seven hundred prisoners were taken, with abundance of ammunition, and above 30 pieces of cannon ; that the brigade, under Brigadier General Lumley, had no chance of success after 10 o'clock in the morning ; that no communication was made to them from head quarters, and that, about two o'clock, the 36th regiment, part of Brigadier General Lumley's brigade, and the 5th, forming a part of Sir Samuel Achmuty's brigade, were compelled to retreat, and to join Sir Samuel Achmuty, at the Plaza del Tauros ; that the 88th regiment, the other parts of Brigadier General Lumley's brigade, under Lieutenant Colonel Duff, and Major Vandeleur, and the light brigade, under Brigadier General Craufurd and Lieutenant Colonel Pack, were compelled to surrender ; that the columns, under Sir Samuel Achmuty, Brigadier General Lumley, Brigadier General Craufurd, and Lieutenant Colonel Guard, executed the purport of their orders, but that no communication was made to any of them, from head quarters, during the attack ; and that the 36th regiment, and the light brigade, were compelled to surrender, for want of such further orders, or of support. The defence which General Whitelocke has set up, on this part of the case, the Court has heard so recently, that I shall make very few observations upon it. He imputes the surrender

of those columns, to a disobedience of the orders he had given : he states, that, when the two divisions of the light brigade had arrived at the river, they turned to the left, instead of following the directions he had given, of inclining to the right. I must intreat the Court to consider a little what the circumstances were, under which those columns found themselves, and most particularly that division of the light brigade, which was under Brigadier General Craufurd. It appears, upon the evidence, that it met with no resistance in marching through the Town; that he arrived at the Plata, without firing a shot; when he arrived there the force of the enemy was all to the left. The Court will see, by the plan, that the high buildings, which he was directed to occupy, were all to the left; that Colonel Pack's division, which he states to you was then engaged with the enemy, from the firing of musketry he heard, were all to the left. What was any officer to do in that situation; it is true, unquestionably, that had he turned to the right he might have effected his retreat to the Residencia; but would he, as General Whitelocke observes, have effected the purport of his orders by turning his back upon the enemy, by leaving the buildings he was expressly directed to occupy, and by going to the Residencia, which he was never even informed by or through General Whitelocke, was to be occupied by our troops; nor did he know the fact till he was joined by the division of the 45th, under Lieutenant Colonel Guard. The Court will see, that the instruction, not to incline to the left, applies to the not inclining to the left during the march through the Town; for, that if it applied to any thing else, it was utterly inconsistent with the other order, that the high buildings were to be taken possession of by the light brigade; I submit to the consideration of the Court, that that defence, resting upon the disobedience of orders, is no defence for the order which was given; and the same ob-

servation equally applies to the other division of the light
 brigade, under lieutenant Colonel Pack ; because you
 will find, if you look to the map, that, in order to comply
 with the order he had received, of occupying the high
 buildings, he was compelled to turn to the left ; inas-
 much as, if I do not mistake the plan, there was no high
 building to the right ; then it will be for the Court to
 consider, what the officers' leading divisions were to do
 under the orders they had received. It appears, that the
 officers' leading divisions were furnished with directions
 for their conduct, only to a certain point ; from which
 point, subsequent operations were to be undertaken, with
 a view to the object of the attack ; and, it appears, that
 no means were taken to insure the power of communica-
 ting further orders ; and that no other attempt was made
 by General Whitelocke, than what will appear hereafter,
 to communicate any of those order, upon which, by his
 own statement, all the further operations were to depend.
 The Court will likewise consider, what would have been
 the consequence, if those orders, which have been pro-
 duced in evidence, had been punctually obeyed ; the
 consequence would have been this : that all the columns
 of the army would have taken possession of the houses
 near the Plata, would have formed, as the order states,
 on the tops of those houses, with the left flank of the
 right, and the right flank of the left, pointing to, and
 almost communicating with, the centre of the enemy's
 force ; and there they were to remain, for aught I know,
 till this time, for no further order was ever communicated
 to them. So much I thought it necessary to state, with
 respect to this extraordinary defence, which has been set
 up by Lieutenant General Whitelocke, and, certainly,
 if he did think fit to charge those officers of his army,
 whose evidence the Court have heard, and whose fate,
 after the gallantry they displayed, every man must join
 in lamenting, if he does think it is a defence to him, to

attribute to those officers' disobedience of orders, I perhaps have less reason to be surprized at the sort of charges he has thought fit to throw out against me.

The next point he has stated, in his defence, as another imputation against the conduct of that column is, that instead of occupying three houses only one was occupied. I need, hardly, observe that from the evidence which the Court have heard upon that subject; if there was an expectation of receiving further support, and if it was the object, as it is stated by themselves, and as it ought to be, of his officers commanding that column, as long as possible, to avoid a surrender; in order to wait for that support it must have been desirable to concentrate as much as possible that force; and, therefore, that the movement which was made to the church of St. Domingo was the most advantageous movement which could be made for that purpose: instead of occupying three houses, which would only have tended to diminish the force, and probably accelerate the surrender of the column.

The other column, the 45th, under Lieutenant-Colonel Guard, reached the Residencia and occupied it at seven in the morning; it appears that if that column had been supported a communication might have been opened with the river, from which it was distant about 250 yards, without the intervention of houses. It appears, by the evidence of Major Nichols, on whom the command of that regiment devolved. As soon as Lieutenant-Colonel Guard made the movement to communicate with Brigadier-General Craufurd, that, if supported, a communication might have been opened, and kept up with Brigadier-General Craufurd; that no material impediments occurred to prevent this support from being given, as appears from the evidence of Major-General Gower, Captain Whittingham, and all the officers who were examined to that point. It was undoubtedly stated by Captain Foster, and I state it to omit nothing which can make

in favour of Lieutenant-General Whitelocke's defence, that there were difficulties, in his opinion, in attempting to communicate with the 45th, the right flank of the army, but it was proved by Captain Whittingham that the next day, when the army of the enemy was more disposable, he was able to effect that movement with 100 infantry, and a few mounted cavalry. It appears that no support was given, and that no communication was received at the Residencia from General Whitelocke till 1 o'clock the following day, that the troops were unprovided with the means necessary to insure success, such as scaling ladders, petards, and proper means for breaking open houses. That the corps under Colonel Mahon passed the Chieullo on the 5th, and that no endeavour was made by Lieutenant-General Whitelocke to communicate with them on that day, so far as to the different columns of the army on that day.

I now come to the personal conduct of Lieutenant-General Whitelocke on that day, and I do not know whether it is necessary, in observing on that conduct, to justify myself, and those who were consulted in framing these charges, from the imputation of entertaining the absurd preposterous opinion, that the commander-in-chief of any expedition is called upon to expose his life to hazard upon all occasions. So far from wishing that any such absurd construction should be put upon this charge, I am ready to admit that the commander who so acts is utterly unfit for his situation, because, by so doing, he commits the safety of his troops, and the success of the enterprize intrusted to him. But I must contend on the other hand, that there are occasions, and whether this is one of those occasions the Court will judge, where the personal exertion of the commander-in-chief is not only required, but an indispensable part of his duty. If I wished for authorities I should not have to look far; there are those among the members of this Court whom I am

addressing, fortunate enough to have had the opportunity, which all would have availed themselves of, had the same good fortune been the lot of all, of adding to the glory of their country, and their own laurels, by the well-timed display of those qualities, the total absence of which is imputed to the object of these charges ; but I will not offend the delicacy of any man by personal allusions, or by citing living and present instances of this truth, I may, however, without offence advert to the example of a noble and distinguished commander, now unfortunately no more, who has been snatched from you and from the world in the course of this proceeding. If ever there was a General, who had proved the irresistible effects of personal exertion in command and in action, it was Lord Lake. He had shewn in a variety of instances how it would insure the confidence and excite the ardour of his troops, how it would overcome all sense of fatigue, and inferiority of numbers, how it would inspire them with his own soul, supply every want, and in spite of all obstacles command victory. But I must turn from the pleasing but melancholy recollection of his virtues to the conduct of General Whitelocke. It appears that General Whitelocke on the 5th of July remained stationary at the Corral, a place described to be about 600 yards in length, and 550 in breadth, from which nothing but the tops of the houses of the town could be seen from six in the morning till it was dark, with the exception of about half an hour, during which he retired to Mr. White's house, which was about 250 yards in the rear, that the firing of cannon and musketry began almost immediately after the troops marched by his orders into the town at half past six in the morning ; that it continued to be heard at the Corral with more or less violence during the whole day, or as one witness states till four o'clock in the evening ; that all communication almost immediately after the commencement of the attack was

cut off between General Whitelocke and the columns, who by his order marched into the town; that he sent Lieutenant-Colonel Foster into the town to reconnoitre, I believe I am not quite accurate as to the time, but about ten o'clock; that Lieutenant-Colonel Foster met the 6th dragoon guards, and a squadron of the 9th light dragoons, who had been ordered into the town by Lieutenant-General Whitelocke, and which were forced to retreat with loss. That Lieutenant-Colonel Foster reported to Lieutenant-General Whitelocke, about eleven o'clock, that from the tops of some of the highest houses he could distinguish the riflemen firing from the top of a church; that a British flag flew on a building which he took to be, as it proved to be afterwards the Residencia, and another flag to the left: that the houses from which Lieutenant-Colonel Foster made those observations were not more than a mile from the Corral; that Lieutenant-General Whitelocke sent Lieutenant-Colonel Foster several times in the course of the day to make this reconnoissance; that later in the day it grew hazy, and he could only distinguish the flag continuing to fly on the Residencia; that Lieutenant-General Whitelocke sent Major Castley with only two or three dragoons to reconnoitre on the left, who returned without success; that about two o'clock he sent Captain Whittingham with an escort of ten mounted dragoons and thirty infantry; that about four o'clock Captain Whittingham returned with no other escort than the ten mounted dragoons, having left the infantry at the Plaza del Tauros; that he reported the situation of Sir Samuel Achmuty, and Sir Samuel's advice that General Whitelocke should remove his headquarters to the Plaza; but that he could maintain his post, and desired the General not to hurry himself; that when it was nearly dark General Whitelocke left the Corral and went to Mr. White's house, where he passed the night; that when he left the Corral he was in ignorance of the fate of the light brigade; that he made no

personal attempt to communicate with or support the different columns of his army, or any other attempts of any other kind than those already mentioned, except the giving other orders of a similar nature to different officers of his staff to reconnoitre, and let him know what was going on. That he might have changed his station with advantage about the middle of the day ; this is proved by the evidence of Major-General Gower, Lieutenant-Colonel Bourke, and the Adjutant-General. That the whole of the reserve under Lieutenant-General Whitelocke including those employed in guarding the hospital and prisoners, and including the 6th dragoon guards, and the 9th light dragoons were about 1,100 men on the morning of the 5th ; that after the casualties which occurred to the 6th dragoon guards, and the squadron of the 9th light dragoons, the amount of the numbers were 1,050 men.

On the 6th it appears that General Whitelocke sent an aid-de-camp to communicate with the Residencia and with Colonel Mahon. That he received that morning a letter from General Liniers containing proposals for a treaty. That General Whitelocke sent an immediate answer, refusing the terms, but proposing a cessation of hostilities ; that he set out for the Plaza del Tauros about twelve o'clock, and arrived about one. That on the evening of the 6th Lieutenant-General Whitelocke sent Major-General Gower into the town to confer with General Liniers, when some discussions took place, which were duly reported to Lieutenant-General Whitelocke. That on the 7th the Admiral came on shore, and then a treaty for the surrender of the Residencia, the Plazadel Tauros, and Monte Video was concluded.

Before I make any observation on the subject of the 4th Charge, I must advert to two objections by Lieutenant General Whitelocke ; one of which, if well founded, goes the length of establishing, that he is not amenable to this Court at all, inasmuch, as he states that treaty

to have been made in pursuance of civil, and not of military instructions. With respect to that point, to enable the Court to judge of the grounds on which this objection rests, I will read what the general instructions are, as far as they appear to relate to this point.

“Sir,—It having been thought advisable, that an officer of high rank, as well as of approved talents and judgment, should be sent to take the command of such of his Majesty’s forces as are at this time employed in the southern provinces of South America, I am to inform you, that his Majesty has been graciously pleased to make choice of you for that purpose; and that you are to repair forthwith, in a vessel already provided for your conveyance, to the mouth of the river Plata, there to take upon you the said command.” These instructions then proceed to give him orders, both with respect to the reduction of Buenos Ayres, and the alterations he is to make in the government of the country; and, with respect to the commercial regulation he is to establish in the countries reduced to subjection. So that it clearly appears, that under these general instructions, he was empowered to act both in a civil and military character. Supposing the question of his authorities stood upon these instructions alone, the Court must judge, whether the act done was in pursuance of an authority of a civil or a military nature; or, whether he is invested with other powers than those which every officer must of necessity possess, even if not expressed, who proceeds upon a conquest, namely, of conducting the civil government of that conquest, if he succeeds in his enterprise, till his Majesty’s pleasure is made known. Supposing that to be the case, I would wish the Court to hear what the civil instructions are, in order that they may judge whether any other power, whatever, is given to Lieutenant General Whitelocke, under those instructions, called civil, than those which he already possessed

under the general instructions I have been reading. The civil instructions are these :

“ Sir,—In addition to your general instructions, of the 5th instant, I am now to signify to you his Majesty's pleasure, that, in the event of his Majesty's authority being established in the southern provinces of South America, you shall assume and exercise, until his Majesty's further commands shall be made known to you, the civil government of those territories ; taking for your guidance and direction the instructions that have already been conveyed to you on that head. And I am further commanded to notify to you his Majesty's gracious directions, that you are to receive for your salary and allowances, in that capacity, the sum of four thousand pounds sterling, per annum, in addition to your military appointments ; which sum you are hereby authorized to pay yourself, out of any revenues which may be collected on account of his Majesty, in the provinces above alluded to ; or, should such revenues prove inadequate to the purpose, to draw upon his Majesty's treasury for the amount of the deficiency.” These papers will be before the Court. I protest I cannot discover any new powers whatever, which those civil instructions invest General Whitelock with, except the power of receiving four thousand a year for salary. All the other powers he had before, under the general instructions, to which these civil instructions refer ; which general instructions contained the powers on which he was to act ; and, in consequence of which power, it is that he makes the treaty which is now the subject of your consideration.

With respect to the other objection, taken by General Whitelocke, that an officer must be personally present in a fortress in order to come within the construction of the clause under which this charge is framed, I have little more to observe than, that the clause in question,

as the Court well know, is penned by military men, it is intended exclusively for military men, no other but military men are subjected to its provisions; and for this reason I am not at all qualified to give an opinion upon the point. It is entirely for the Court. I cannot undoubtedly discover any reason, in principle, why (supposing the fact to be clear, that an officer has, without sufficient reason, given up to the enemy a post, of which he had the charge, and which he was intrusted to defend,) it should make any difference whether he was or was not personally present in that post. Supposing, for instance, the commander of Gibraltar to march out of the lines of that fortress; and, when without the lines, to make a treaty, as it is called, surrendering the place, is it to be contended that his being out of the lines exempts him from that clause; whereas, if he was within the lines, the case would come within the act. If there is no difference in the principle, is there any thing in the words of this clause which tends to exclude one case or to include the other. The word upon which I conclude the argument which has been brought forward by Lieutenant General Whitelocke, if he means to draw any inference from the wording of the clause, must be "adandon." It must be intended to contend that the word abandon implies, that the officer, to whom the charge of abandonment is imputed, must be personally present in the place. Whether abandonment signifies any thing else than giving up, and whether, if it only signifies giving up, an officer not present does not equally give up the post, as if he were present, is for the Court to judge. I state these observations, as those which occur to me upon the subject, rather as the reason for the charge being brought forward in the way it is, than as any decided opinion of my own. If the Court should think that the situation General Whitelocke had, does not exempt him from the operation of the clause, it will

then be for the Court to consider what the evidence is upon which this charge has been supported; and I feel, in that respect, I own, more difficulty than I have done in any part of this proceeding, because I am called upon to controvert the opinion of two gallant officers of high rank in the service, who have given opinions favorable to this treaty. One of these has stated to you distinctly the grounds upon which that treaty was made, I mean Sir Samuel Achmuty, and I select him, because he went more at length into the reasons which led him to approve the treaty, than Major General Gower who likewise approved it, under the circumstances in which the army was placed. The reasons given are these, and I am the more anxious to state them correctly, because this part of the charge Lieutenant General Whitelocke passed over slightly, admitting that, on the opinions of Sir Samuel Achmuty and Major General Gower, corresponding with his own, the arguments are these, that the light infantry and rifle men were prisoners and half the troops engaged killed, wounded, or captured. The remainder fatigued, without confidence, and exposed at the most inclement season of the year, without blankets, great coats, or a change of necessaries. The Court know that the remainder of the army amounted, as proved by the returns, to 5400 men. There appears to be no reason why they should be without cover. There was cover at the Corral, there was cover at the Plaza, there was cover at the Residencia, if the generals thought proper, as I have no doubt they would have gone to secure them cover, excepting, of course, the piquets, who must have been exposed. It is stated that the troops were fatigued: the Court will recollect, how these troops were disposed of; there was a large force at the Plaza, consisting of part of General Lumley's Brigade, and Sir Samuel Achmuty's brigade, and that part of the reserve which

Lieutenant General Whitelocke carried with him from the Corral to the Tauros. The remainder of the reserve, appear to have had very little action. There was the 45th, at the Residencia, who had never moved since seven on the morning of the 5th, when they took possession of the Residencia; and there was Colonel Mahon's corps of 1800 men, who had only marched the distance from Reduction to the Corral between the 2d of July and the 6th, when this treaty was decided upon. It does not appear, therefore, that there was any very good ground for the opinion, that the troops had incurred any great fatigue on the 6th; but it is stated, that the troops wanted confidence; and General Whitelocke, in his defence, has thought proper to insinuate, though not directly to assert, I think, that that want of confidence was to be referred to what had passed on the 2d of July; but, when the Court advert to the evidence given by Sir Samuel Achmuty, they will judge whether the want of confidence Sir Samuel Achmuty stated, was not distinctly stated by him to be want of confidence in the general of the army, and expressed in terms, which he was unwilling to repeat, by the troops under him at the Tauros. How far that can be stated by Lieutenant General Whitelocke, the want of confidence in himself, as the reason why he should be exempted from the operation of this clause, it will be for the Court to consider. Sir Samuel Achmuty proceeds to state, that the scattered state of the troops was a reason for his approving of the treaty; that Colonel Mahon might be attacked by the whole force of the enemy; that there was a difficulty in procuring ordnance, stores, and provisions from the fleet. The loss there was every probability the army would sustain, if hostilities were recommenced. The difficulty of either burning or destroying the town with our artillery. The houses built with high terraced roofs, the bricks so soft that the shot

would penetrate without shaking. The difficulty of effecting a retreat, having 2000 of our best troops in the possession of the enemy, and the danger which might have occurred even in the capture of the place; our number being totally inadequate. With respect to the disposition of the troops, the Court will recollect that each flank of the town was in our possession; the 45th at the Residencia, and the troops I have already mentioned in the Plaza, and that the corps under Colonel Mahon, with the remainder of the reserve corps, had possession of the rear. The Court must judge whether they could have been placed in a better position for the renewal of hostilities. With respect to the effect of batteries, this evidence is contradicted by those whose peculiar duty it is to judge of the effect of artillery. It is in evidence from Captain Squire and Captain Fraser not only that above thirty pieces of cannon had been taken at the Plaza, with six hundred barrels of gun-powder; but that Captain Fraser reported to Lieutenant General Whitelocke, on the evening of the 6th, that he would pledge himself to have thirty pieces of cannon ready to play upon the town on the following morning; and the Admiral stated that the ordnance might have been landed, and that he had, when the truce was signed, the heavy artillery in the boats. As to the supposition of heavy loss, the Court will judge of it, and whether with the means of commencing a heavy fire upon the town from the Plaza del Tauros, and from the gun-boats, there was not ground for apprehending that much serious loss would have been incurred. You will find also, that Brigadier General Craufurd and Colonel Pack concur in opinion, that the effect of batteries might have been tried with advantage from the Plaza; and it is stated by all the evidence, that this was an open populous city, defended chiefly by the armed population. It is for the Court to judge, whether

under these circumstances General Whitelocke was justified in making no attempt with the means he had in his power, and in acceding to this capitulation. With respect to any discretion vested in him by his instructions, I do not think he has dwelt much upon it, and indeed, it is perfectly clear, from reading these instructions, that unless they are to be supposed to be contradictory to each other, that the abandonment of Monte Video cannot be defended, except in a case of necessity; for, after stating particular circumstances which might arise, and make it necessary to abandon Monte Video, and dismantle the place, circumstances certainly applying to the expedition, having obtained possession of a great portion of the country, what are the words but “two cases remain to be provided for, which, however unlikely, must not be wholly passed over:—one, namely, that of your finding, on your arrival, that the places hitherto occupied by his Majesty’s troops, are no longer in their possession;—the other, that of its becoming necessary, at any subsequent period, to abandon whatever had been before possessed, and to withdraw the whole of the British force from that country.” It is, therefore, perfectly clear that there was no discretion upon the subject of abandoning Monte Video, when, by that abandonment, every thing we had on the banks of the Plata was to be given up, unless in the case of necessity. Whether that case of necessity had arrived, which could justify the abandonment of all that we possessed on the Plata, the Court will have to consider upon the evidence.

But there is another part of General Whitelocke’s defence upon this subject which I cannot pass over in silence; I mean, the strong stress which he has laid, both in his public and private dispatch, and since in his defence, upon the danger that existed to the safety of the prisoners, if hostilities had re-commenced. I will not

now call in question, whether there was real ground or not, to believe that that danger existed: I will admit that he thought it did. But, it is to be understood for the future, as an axiom in war, that because danger is stated perhaps truly to exist, such a threat from the enemy is to be submitted to by the general to whom it is addressed. Look to the consequences. The menace which has prevailed in one case will not be repeated in another, in hope of similar success. If the menace does not answer its object, may it not too probably be thought that the realizing that threat may be more effectual, and that the same feelings which have yielded to the threat in the one instance, will not stand against the execution of it in another? See what an encouragement to cruelty! What a temptation to experiments in blood! I do not charge General Whitelocke with being at all aware of the mischiefs of the doctrine his example was sanctioning. I will admit that he was actuated by the humane motives he states, but I must contend that it was a false and short sighted motive of humanity, which, like all other false and mistaken principles, defeats the object it is meant to uphold. The safety of the prisoners is secured by the acknowledged laws of war, and by the mutual interest of the belligerent powers; but if once a direlection of those laws and interests is to be admitted, as in this instance, and to be crowned with success, the principles themselves are subverted, and the best guarantee for the safety of the prisoners is destroyed. Instead of tamely acquiescing in this menace of General Liniers, the Spanish general should have been told that until that intimation was retracted, the door to negociation was closed; that if a hair of the head of any one British prisoner was touched, the Spanish general, his army, and the inhabitant, should answer it with their lives. He ought to have been told, that if he had not authority to prevent such atrocity, and to secure the observ-

ance of the most sacred rights of war, it was he who ought to surrender ; that, if he maintained his post under such disgraceful circumstances, he was no longer to be treated with as a general, but to be dealt with as a leader of banditti. Those are the sentiments which such an intimation should have called forth ; they are grounded not more on genuine feeling than in sound policy : for never, I believe, did Nature say one thing, and Wisdom say another. But such a reply as this should have been accompanied by correspondent action, and you will consider, whether the means we had in our power, if properly applied, would not only have secured the safety of the prisoners, but would have prevented this disgraceful capitulation ; or whether the experiment should not have been made, which, it appears, was not even attempted. Whatever may be your opinion of the innocence or guilt of General Whitelocke ; whatever you may think of the other reasons, given by him or others, for acceding to the treaty, I trust there is but one opinion upon this part of the defence : I feel it my duty to protest against this new doctrine in the laws and practice of war. The refutation of this doctrine is more important for the interests of the army, and for the cause of humanity, than any thing which may result from this inquiry in other respects, or than any other consequences of this most unfortunate expedition. If you should be of opinion, that there are grounds upon which it must be taken, that General Whitelocke is not within the operation of this clause, it will then be for you to consider, by what means, and to what cause it has been owing, that this gallant army, deserving of a better fate, was reduced to such a humiliating situation, as to be obliged to purchase its own safety, and the ransom of the prisoners, at the expense of such a sacrifice of national honour and advantages. The evidence is all before you,

and I am sure that Justice will have nothing to fear from your decision.

I am desired by General Whitelocke to read this part of the defence.

[The Judge Advocate read an extract from the defence, beginning, "I do not complain, because, I do not feel that I have a right to do so in such a case,"—ending, "Charges finally settled."

General Whitelocke.—That is all to which I referred.

Judge Advocate.—Then I must beg to read on for my own justification.

[The Judge Advocate read a further extract, ending, "not of myself only, but of others."]

Judge Advocate.—I have this paper put into my hands by General Whitelocke, which I will read.

"Lieutenant General Whitelocke had no knowledge of the foundation of the previous examination of the Judge Advocate; and hearing only that the greater part of his staff had been summoned, and examined, could not but feel, that it was an unusual proceeding; he now intreats permission to state, that he feels both the motives, and the conduct of the Judge Advocate, in this respect, to have been candid, and liberal, and honorable, and one for which he owes him thanks. Lieutenant General Whitelocke begs, that the observations made by him, upon this subject, may be attributed to a want of knowledge of the motives of the conduct pursued, and to the feelings which he has described in his defence."

THE END.

APPENDIX.

(A.)

Warrant for holding the Court.

GEORGE R.

WHEREAS it hath been most humbly represented unto us, that the following charges have been exhibited against Lieutenant General John Whitelocke, colonel of our Eighty-ninth Regiment of Foot, viz.

FIRST CHARGE.

THAT the said Lieutenant-General Whitelocke, having received instructions from his Majesty's Principal Secretary of State, to proceed to the reduction of the province of Buenos Ayres, pursued measures ill calculated to facilitate that conquest; that when the Spanish commander had shewn such symptoms of a disposition to retreat, as to express a desire to communicate with Major-General Gower, the second in command, upon the subject of terms, the said Lieutenant-General Whitelocke did return a message, in which he demanded, amongst other articles, the surrender of all persons holding civil offices in the government of Buenos Ayres as prisoners of war. That the said Lieutenant-General Whitelocke, in making such an offensive and unusual demand, tending to exasperate the inhabitants of Buenos Ayres, to produce and encourage a spirit of resistance to his Majesty's arms, to exclude the hope of amicable accommodation, and to increase the difficulties of the service with which he was entrusted, acted in a manner unbecoming his duty as an officer, prejudicial to military discipline, and contrary to the articles of war.

SECOND CHARGE.

That the said Lieutenant-General Whitelocke, after the landing of the troops at Ensanada, and during the march from thence to the town of Buenos Ayres, did not make the military arrangements best calculated to ensure the success of his operations against the town; and that having known, previously to his attack upon the town of Buenos Ayres, upon the 5th of July, 1807, as appears from his dispatch of July 10th, that the enemy meant to occupy the flat roofs of the houses, he did nevertheless, in the said attack, divide his forces into several brigades and parts, and ordered the whole to be unloaded, and no firing to be permitted on any account; and under this order to march into the principal streets of the town, unprovided with proper and sufficient means for forcing the barricadoes, whereby the troops were unnecessarily exposed to destruction, without the possibility of making effectual opposition; such conduct betraying great professional incapacity on the part of the said Lieutenant-General Whitelocke, tending to lessen the confidence of the troops in the judgment of their officers, being derogatory to the honour of his Majesty's arms, contrary to his duty as an officer, prejudicial to good order and military discipline, and contrary to the articles of war.

THIRD CHARGE,

That the said Lieutenant-General Whitelocke did not make, although it was in his power, any effectual attempt, by his own personal exertion or otherwise, to co-operate with or support the different divisions of the army under his command, when engaged with the enemy in the streets of Buenos Ayres, on the 5th of July, whereby those troops, after having encountered and surmounted a constant and well directed fire, and having effected the purport of the orders, were left without aid and support, or further orders; and considerable detachments, under Lieutenant-Colonel Duff, and Brigadier-General Crau-

furd, were thereby compelled to surrender; such conduct on the part of Lieutenant-General Whitelocke, tending to the defeat and dishonour of his Majesty's arms, to lessen the confidence of the troops in the skill and courage of their officers, being unbecoming and disgraceful to his character as an officer, prejudicial to good order and military discipline, and contrary to the articles of war.

FOURTH CHARGE.

That the said Lieutenant-General Whitelocke, subsequently to the attack upon the town of Buenos Ayres, and at a time when the troops under his command were in possession of posts on each flank of the town, and of the principal arsenal, with a communication open to the fleet, and having an effective force of about 5000 men, did enter into, and finally conclude a treaty with the enemy, whereby he acknowledges in the public dispatch of the 10th July, 1807, that "he resolved to forego the advantages which the bravery of his troops had obtained, and which advantages had cost him about 2500 men in killed, wounded, and prisoners;" and by such treaty he unnecessarily and shamefully surrendered all such advantages, totally evacuated the town of Buenos Ayres, and consented to deliver, and did shamefully abandon and deliver up to the enemy the strong fortress of Monte Video, which had been committed to his charge, and which, at the period of the treaty and abandonment, was well and sufficiently garrisoned and provided against attack, and which was not, at such period, in a state of blockade or siege: such conduct, on the part of the said Lieutenant General Whitelocke, tending to the dishonour of his Majesty's arms, and being contrary to his duty as an officer, prejudicial to good order and military discipline, and contrary to the articles of war.

Which charges we have thought fit should be enquired into by a General Court Martial. Our will and pleasure therefore is, that a General Court Martial be forthwith held on this occasion, which is consist of our right,

trusty, and well-beloved councillor Sir William Medows, Knight of the most Honourable Order of the Bath, General in our Army, and Colonel in our Seventh (or Princess Royal's) regiment of Dragoon Guards, whom we appoint President thereof, and of a sufficient number of other officers of competent rank and quality, who can be conveniently summoned to attend the same. And you are to order the Provost Marshal General of our Forces, or his deputy, to give notice to the said President and Officers, and all others whom it may concern, when and where the said Court Martial is to be held, and to summon such witnesses as may be able to give testimony touching the charges above specified. The said Provost Master General and his Deputy being hereby required to obey your orders, and give their attendance where it shall be requisite. And we do hereby authorize and empower the said General Court Martial to hear and examine all such matters and informations as shall be brought before them, touching the charges against the said Lieutenant General John Whitelocke as aforesaid, and to proceed in the trial and in giving sentence according to the rules of military discipline. And for so doing, this shall be, as well as to you as to the General Court Martial and all others whom it may concern, a sufficient Warrant.

Given at our Court at St. James's, this Twenty-fifth day of January, 1808, in the Forty-eighth Year of our Reign.

By his Majesty's command,

(Signed) HAWKESBURY.

To our right trusty and well-beloved
Councillor the Honourable Richard
Ryder, Judge Advocate General of
our Forces, or his Deputy.

(B.)

*Copy of the Military Commission to Lieutenant General
WHITELOCKE.*

GEORGE R.

GEORGE the Third, by the Grace of God, of the United Kingdom of Great Britain and Ireland, King, Defender of the Faith, To our trusty and well-beloved John Whitelocke, Esq. Lieutenant General of our forces, greeting. We, reposing especial trust and confidence in your prudence, courage, and loyalty, do, by these presents, constitute and appoint you to be commander of all and singular our land forces serving in the southern parts of South America during our pleasure. You are therefore carefully and diligently to discharge the said trust of commander of our forces, by doing and performing all and all manner of things thereunto belonging. And we do hereby command all our officers and soldiers, who are or who shall be employed in our land service in the southern parts of South America, to acknowledge and obey you as commander of our forces aforesaid; and you are to observe and follow such orders and directions, from time to time, as you shall receive from us, or from the commander in chief of our forces in our United Kingdom of Great Britain and Ireland, for the time being, according to the rules and discipline of war, in pursuance of the trust we hereby repose in you.

Given at our Court at St. James, the 24th day of February, 1807, in the Forty-seventh year of our Reign.

By his Majesty's command,
(Countersigned) W. WINDHAM.

To Lieutenant General Whitelocke,
Commander of the Forces serving
in South America.

(C.)

*Copy of the Appointment of General WHITELOCKE as
Civil Governor.*

SIR,

Downing Street, 6th March, 1807.

IN addition to your general instructions of the 5th instant, I am now to signify to you his Majesty's pleasure, that, in the event of his Majesty's authority being established in the southern provinces of South America, you should assume and exercise, until his Majesty's further commands shall be made known to you, the civil government of those territories, taking for your guidance and direction the instructions that have already been conveyed to you on that head. And I am further commanded to notify to you his Majesty's gracious directions, that you are to receive for your salary and allowances in that capacity the sum of four thousand pounds sterling per annum, in addition to your military appointments; which sum you are hereby authorised to pay yourself

1st Deputy Adjutant General—Brig. Lieutenant Colonel
Bradford.

1st Deputy Quarter Master General—Brig. Lieutenant
Colonel Bourke

2 Assistant Adjutant Generals { Capt. Blake, 15th foot.

2 Assist. Quar. Mas. Generals { Capt. Patrick, 57th foot.

1 Deputy Pay Master General—Mr. Badcock.

1 Ditto, Commissary of Accounts—Mr. Bisset.

1 Ditto, Commissary of Provisions and Stores—Mr. Conch.

HOSPITAL STAFF.

1 Inspector of Hospitals—Dr. Gordon.

1 Deputy ditto—G. R. Redmond.

1 Physician to the Forces—Dr. C. Tice

2 Surgeons to the Forces—J. Kidd and T. Bury.

1 Apothecary to the Forces—T. C. Price.

1 Deputy Purveyor—William James.

4 Hospital Mates—John Dove, J. Paterson, J. White,
and J. Luby.

Your own personal Staff consists, as usual, of one military secretary and two aids du-camp.

You will transmit monthly returns of the troops under your command to the Secretary at War, and to the adjutant-general for my information. And you will strictly adhere to his Majesty's regulations in regard to the pay, clothing, and appointments of the troops. And your special attention must necessarily be directed to their discipline, and to the interior economy of the different corps, which is so essential not only to the comfort of the soldier but to the preservation of his health, under every change of climate to which he may be exposed. Under the head of Pay, I have to direct your attention to the instructions of the Paymasters General to their deputy, respecting the usual stoppages being deducted from the pay of the several Staff Officers, and to which you are required to give the most punctual attention.

On all subjects relating to your command, you will be pleased to correspond with me; and you will regularly communicate to me all military transactions in which you may be engaged, reporting to me all vacancies that may occur in the troops under your command. And as his Majesty has not thought proper to confer upon you the power of appointing commissions, you will be pleased to recommend to me such officers as may appear to you most deserving of promotion, stating the special reasons where such recommendations are not in the usual channel of seniority.

As all the regiments under your command have second battalions attached to them, and which remain in this country, it is necessary that I should acquaint you that the first battalions under your orders being composed exclusively of the senior officers of their respective ranks; such vacancies as may occur therein, by

promotion or casualty, must unavoidably be supplied by officers from the second battalions, who will be immediately ordered to join on such vacancies being made known to me.

You will be vested with the usual powers of convening General Courts Martial, under such restrictions as it might be thought proper to determine upon. Upon this subject I have to observe, that, as great inconvenience has arisen to the service from the officers commanding on several foreign stations having permitted Prisoners to return to Europe prior to the proceedings and opinion of the Court Martial having been submitted to the King: I have to desire that, in all cases where any person whatever may be tried by a General Court Martial, and where your powers are not sufficient to enable you to decide finally upon the proceedings, opinion, and sentence of the Court, that you do not permit the prisoner to return to Europe until his Majesty's commands shall have been duly communicated to you through the proper channel for that purpose.

Should you have occasion to recommend any gentleman for an Ensigncy, you will be pleased to make known his address, in order that if his Majesty should be pleased to confirm the recommendation, he may be directed to join the corps immediately on his appointment.

In all cases where doubts may arise, and any opportunity offer, by which you may be desirous to obtain further and more special instructions, you will always find me ready to attend to, and give effect to your representations.

To Lieut. Gen. Whitelocke,
&c. &c. &c.

I am, Sir, your's,
FREDERICK,
Commander in Chief.

(E.)

*Copy of Additional Instructions to Lieutenant General
WHITELOCKE.*

Horse Guards, 24th Feb. 1807.

As it is probable that, from the instructions with which you have been furnished by his Majesty's Ministers, you may find it expedient to raise a colonial force, I have to desire that the same may be conducted upon the same principles as are observed in the establishment of the Colonial Corps in the other of his Majesty's possessions, vizt. the regiment to consist of as high an establishment as possible, not to exceed 1000 men; the higher the establishment and effectives, the more economical to the public.

The Officers to be composed of one-third of each rank British, the Colonel also to be British. In the nomination of these British Officers, you will, of course, be governed by an attention to the merits of those under your command, observing, however, that their appointments can only be provisional, until his Majesty's pleasure shall be known and duly communicated to you.

I must here observe to you, that as great inconvenience has been found by General Officers having taken upon themselves (no doubt from a mistaken view to the benefit of the service) to appoint Officers to serve in a rank greater than that to which they are entitled by his Majesty's commission, and particularly to the rank of Brigadier General, I have to desire, that in such possible cases as it may be necessary for you to appoint an Officer of the rank of Colonel to the command of a Brigade, that such Officer should not on any account whatever be permitted to assume any higher rank than what his Majesty's commission confers upon him, nor receive any higher emoluments than what such commission entitles him to.

I have also to desire, that in such cases where you may find it necessary to permit an Officer to return to Europe for the purpose of obtaining his Majesty's consent to the disposal of his commission, that you take care to acquaint him that no money for the purchase of such commission can be paid until after his Majesty's approbation shall have been duly obtained by me, when the regulated price will be paid to him by his successor in the manner pointed out by his Majesty's regulation; and he will be entitled to receive his subsistence up to the day on which his Majesty is pleased to receive his resignation.

I have further to communicate to you, that in the event of a junction with you of the Corps under Brigadier General Craufurd, whose Force and Staff is named in the margin.* The

	<i>Rank & File.</i>
* 6th Dragoon Guards.....	294
Royal Artillery.....	242
5th Foot, 1 Battalion.....	956
36th.....	848
45th.....	373
88th.....	806
95th, 5 Companies.....	372
	—
	4391
Deputy Adjutant General—Brig. Lieut. Col. Stewart.	
Assistant Adjutant General—Capt. Whittingham, 13th Dragoons.	
Deputy Quarter Master General—Brig. Lieut. Colonel Holland.	
Assistant Quarter Master Generals—Capt. Waye, 5th Foot, and Capt. Dickson	
MEDICAL STAFF.	
One Deputy Inspector—A. Thompson.	
One Physician—Dr. King.	
Two Staff Surgeons—C. Crump and C. Montague.	
One Apothecary—J. Burrall.	
One Deputy Purveyor—M. Emerson.	
Eight Hospital Mates.	

Staff will of course cease to act in their respective Staff situations until that corps shall be again employed on a separate service; the Staff named in your instructions, being that which his Majesty has specially appointed for the whole force under your command.

On the subject of courts-martial, I have to acquaint you that as many General Officers from the best motives have taken upon themselves to commute sentences of capital punishment to transportation for a term of years, or for life, when it is found that no such power is delegated by his Majesty, and consequently that the whole of the proceedings may be thereby rendered nugatory: I have therefore to call your particular attention to the powers granted to you by his Majesty's warrant, on this subject, in order to prevent you from inadvertently falling into the irregularity above mentioned.

FREDERICK,

Commander in Chief.

(F.)

Copy of Instructions to Lieutenant General WHITELOCKE.

(SECRET)

SIR,

Downing-street, 5th March, 1807.

IT having been thought adviseable, that an Officer of high rank as well as of improved talents and judgment, should be sent to take the command of such of his Majesty's forces, as are at this time employed in the southern provinces of South America; I am to inform you that his Majesty has been graciously pleased to make choice of you for that purpose; and that you are to repair forthwith, in a vessel already provided for your conveyance, to the mouth of the River Plata, there to take upon you the said command. The forces, which you are likely to find at your arrival are those sent from the Cape, under the command of Lieutenant Colonel Backhouse, and those which sailed from this country under the command of Brigadier General Sir Samuel Achmuty, consisting of the following corps, amounting in the whole to 5,338 men.

9th Dragoons,	632
17th Dragoons,	628
20th Dragoons,	191
21st Dragoons,	140
Royal Artillery,	117
38th Foot,	811
40th Ditto,	1000
47th Ditto,	685
54th Ditto,	103
87th Ditto,	801
95th, 3 Companies,	230

5338

But to these, will probably be added, either by the time of your arrival, or not long afterwards, the forces under the command

of Brigadier General Craufurd, consisting of the following corps, and amounting to 4,212 men

6th Dragoon Guards,	299
Royal Artillery,	243
5th Foot,	836
26th Ditto,	822
45th Ditto,	850
88th Ditto,	798
95th, 5 Companies,	364

4,212

That you may judge with greater certainty of reliance to be placed on the probable junction of this latter force, as well as of the 9th Regiment of Dragoons mentioned above, and the destination of which may have been changed by the vessel sent from Admiral Murray, I inclose you an account of all intelligence received, and all orders issued, having relation to this subject, by which it will appear, that hardly a doubt can now be entertained of the arrival of the Fly before General Craufurd shall have left the Cape, and that he will in consequence, in conjunction with Admiral Murray, have directed his course to the Plata.

As it is possible, however, that this may not have happened, both cases must be provided for, either of the junction of the armament under General Craufurd, or of its having pursued its original destination. In the former of these cases, as your force, it is conceived, will then be more than sufficient for any purposes that you can have in view; you will detach, at the very earliest moment in which you shall judge it safe so to do, the 89th, and any other regiment which you may think yourself strong enough to spare after your first operations, to proceed under a proper convoy to the Cape, and from thence to India. With the force above-stated, you will proceed to execute the service intrusted to you, by the reduction of the province of Buenos Ayres under the authority of his Majesty. In the other far less probable case, of the armament under General Craufurd having pursued its original course, it must probably in the end be thought proper, after waiting as long as to the Admiral and you shall have appeared adviseable, to detach a vessel round Cape Horn, to convey your orders to General Craufurd, which orders may either direct him to prosecute his enterprize, as at present planned, or to renounce such enterprize altogether.

Complete discretion is left to you, and the commanding Naval Officers in that respect; except only that you are not to extend the limits of his operations beyond the point to which they are now confined; and that in all cases where the co-operation of any part of his Majesty's Naval forces may be requisite, no step is to be taken or order given, to General Craufurd, but in concurrence with the opinion of the Naval Commanding Officer, as well at the Plata, as with General Craufurd. In whatever is done, whether in respect of instructions to general Craufurd, should he have

pursued his original destination without touching at Buenos Ayres, or of the application of the force, which you will find immediately on the spot, you will consider as the object of your enterprize, not the annoyance or distress of the enemy, but the occupation of such particular stations or portions of territory, as being once subjected to his Majesty's arms, would not be easily recoverable, and would moreover not require for preservation of them a body of troops more considerable than it may be conceived this country would be willing to spare, and which number certainly ought not to exceed that now placed under your command.

It is presumed, that with a force far less than may be eventually assembled, supposing Brigadier General Craufurd to join you, and which, independent of the force, which you now take with you, would amount to more than 9000 men, possession might be obtained without difficulty, of the whole of the province of Buenos Ayres; but it would still remain to be considered, what numbers would be sufficient to retain the same against the attempts which the enemy might make to recover it, and the forces which he might collect for that purpose.

In whatever part his Majesty's authority shall be established, the greatest care must be taken, and the most earnest endeavours used to conciliate the good will of the inhabitants, by abstaining from every thing which can shock their religious opinions, or prejudices, by respecting their persons and property, by a removal of those restrictions and impositions of which they most complain, and by making them feel in general, the beneficial influence of his Majesty's government, as compared with that under which they were before placed.

In respect to commercial regulations you will have as a rule, the orders settled by his Majesty in council, (copies of which are herewith enclosed), for regulating the trade of Buenos Ayres, and which you will extend as far as circumstances will admit, to other places or territories, which may come into his Majesty's possessions.

In the case of any of those regulations, such as may effect in any degree the government and constitution of the country, the principle to be observed must be, to abstain, as much as possible, from every thing that can infringe upon the rights and privileges, or even established usages of any class of inhabitants; and not to introduce into the government any other change than that which must necessarily arise from the substitution of his Majesty's authority for that of the king of Spain.

Individuals it may be necessary to change, and in so doing, a preference should, as much as possible, be given to the native inhabitants, over persons born in Old Spain.

All those who were principally instrumental in promoting, or executing the insurrection against General Beresford, should be carefully removed, and either sent to Europe, or placed in some situation where their machinations may be no longer dangerous.

The case of General Beresford and his army must, in another view, become an object of your attention, and seems indeed to be

one which calls alike on the national honour, on the feelings which actuate his Majesty's mind, in whatever regards the welfare of the troops, and on the justice due from the country to all those whom it employs in its service.

It may not be clearly ascertained at this moment, to what extent the capitulation made with these troops has been violated, nor what in consequence, is the precise demand proper to be made in their favour, but whatever shall be due to them, either in virtue of any special engagements, or of the general usages established between nations, with respect to prisoners of war, must be enforced to the utmost, nor must any means which the force of arms may place at your disposal, be left unemployed, till complete justice shall be obtained in their behalf. The service entrusted to your care, however successful in other respects, must be considered as incomplete while any doubt shall remain as to the restoration of those troops at the proper period, or of their being protected in the mean time against every species of violence and ill treatment.

Though his Majesty has been pleased to direct, that the following additional force, namely,

1 Troop of Horse Artillery dismounted, with harness and appointments,	} 130
89th Foot,	1000
Recruits,	500
	1,630

shall be immediately sent out with a view to operations which may be found adviseable, but which, without such aid, and in the possible case of General Craufurd not joining, you may not be able to undertake, yet it is not his Majesty's pleasure, that the whole of the force liable eventually to be assembled under your command, should be suffered to remain, but so much only as shall be necessary to secure those positions or territories, of which, upon the final result of your operations, you shall have been able to obtain possession.

It is not supposed that the numbers necessary for this purpose, can in any case exceed 8000 men, in addition to such troops as you may be able to raise in the country. More therefore than these, except in very special circumstances, such as you will be expected fully and satisfactorily to explain to his Majesty's government, you will not consider yourself authorized to retain.

Should the circumstances be such as to confine your operations to the occupation of Monte Video, or Maldonado, or some other point of the coast, which from the facility of defending it, and the protection it may afford to merchants or other vessels, you may think it right to retain; it is presumed that a force far less than the one named, that is to say, 8000 men, will be abundantly sufficient, and in that case, as in every other, you will send whatever surplus shall remain by the first commodious and proper opportunity to England.

Should the reduction of Monte Video, as mentioned above,

make part of your plan of operations, and should you succeed in the attempt, you will not consider yourself as bound by these instructions permanently to keep possession of that fortress; but may withdraw the garrison and destroy the works, should that course appear to you most adviseable.

In all that relates to the management of the revenues of any province or district, of which you may be in possession, you will take, as your guide, the instructions upon that subject to Brigadier General Craufurd, a copy of which is herewith inclosed.

In the same papers you will find instructions on another point of great delicacy and importance, namely, the language to be held in answer to any enquiries on the part of the inhabitants, respecting their future situation at a peace. No other assurances, as you will see by the papers referred to, can be given them, but that his Majesty will not surrender, but with great reluctance, possession to which he attaches so much value; and would in no case consent to such surrender without providing for the security of those, who, from the attachment shewn to his Majesty, might be fearful of having rendered themselves obnoxious to the displeasure of their former government.

It is supposed above, that an addition might be made to his Majesty's forces by troops raised in the country. Great care, of course, must be taken in selecting the individuals or classes proper for such a purpose, and in determining the footing on which they shall be placed, and the amount to which they should be carried; but subject to these precautions, much aid, it is conceived, may be derived from this source towards securing his Majesty's possessions in that quarter, and for avoiding at the same time the necessity of too large a demand on the regular forces of this country. It is hardly necessary to remark, that on this, as on every other occasion, the strictest regard must be had to economy, as well adopting any measure originally, as in arranging the details for carrying the same into effect; and you will therefore be expected, in notifying the adoption of any step on this subject, to enter into a particular detail of the expense to be thereby incurred, and of the reasons which have induced you to think that an expense to that extent was necessary for the attainment of the object.

It has been supposed above, that, whether, in the event of a junction with General Craufurd, or otherwise, no doubt could be entertained of your retaining possession, either to a greater or lesser extent of some part of the eastern coast.

But two cases remain to be provided for, which, however unlikely, must not be wholly passed over; one, namely, that of your finding on your arrival that the places hitherto occupied by his Majesty's troops are no longer in their possession; the other, that of its becoming necessary, at any subsequent period, to abandon whatever had been before possessed, and to withdraw the whole of the British force from that country. In either of these cases nothing would seem to remain but to consider of the mode by which both yourself and General Craufurd, with the whole of the

troops which you severally have with you, might best return to England. But in arranging means for that purpose, as well as in deciding on the measure itself, regard must be had to the probable state of the armament under General Craufurd at the time, considered with a view to the health of the troops, to the supplies still remaining on board the ships, and to the consequent difficulties which might arise upon any new and sudden extension of their voyage.

These considerations will not only require, that any orders which you may send to General Craufurd, in the event of his being separated from you, should be to a certain degree discretionary, but may have an influence also, in determining the line of conduct which you yourself may think it right to pursue, in concert with the naval commanding officers.

You will be careful to avail yourself of every opportunity for conveying to his Majesty's government intelligence of your proceedings, the want of regular and constant information having been already found to be a great source of embarrassment with respect to the particular service of which you are now about to take the direction.

I have the honour to be, Sir,

Your most obedient

To Lieutenant General

Humble Servant,

Whitelocke.

(Signed)

HOWICK.

(G.)

Copy of Dipatch from General WHITELOCKE.

SIR,

Buenos Ayres, July 10, 1807.

I HAVE the honour to acquaint you, for the information of his Majesty, that upon being joined at Monte Video on the 15th of June, by the Corps under Brigadier General Craufurd, not one moment was lost by Rear Admiral Murray and myself in making every necessary arrangement for the attack of Buenos Ayres. After many delays, occasioned by foul winds, a landing was effected, without opposition, on the 28th of the same month, at the Ensanada de Barragon, a small bay, about thirty miles to the eastward to the town. The Corps employed on this expedition were three brigades of Light Artillery, under Captain Fraser; the 5th, 38th, and 87th regiments of Foot, under Brigadier General Sir Samuel Achmuty; the 17th Light Dragoons, 36th, and 88th regiments, under Brigadier General the Honourable William Lumley; eight companies of the 95th regiment, and nine Light Infantry companies, under Brigadier General Craufurd; four troops of the 6th Dragoon Guards, the 9th Light Dragoons, 40th and 45th regiments of Foot, under Colonel the Hon. T. Mahon; all the Dragoons being dismounted, except four troops of the 17th, under Lieutenant Colonel Lloyd.

After some fatiguing marches through a country much intersected by swamps and deep muddy rivulets, the Army reached

Reduction, a village about nine miles distant from the bridge over the Rio Chieulo; on the opposite bank of which the enemy had constructed batteries, and established a formidable line of defence. I resolved, therefore, to turn this position, by marching in two columns from my left, and crossing the river higher up, where it was represented fordable, to unite my Force in the Suburbs of Buenos Ayres. I sent directions at the same time to Colonel Mahon, who was bringing up the greater part of the Artillery under the protection of the 17th Light Dragoons and 40th regiment, to wait for further orders at Reduction.

Major General Leveson Gower having the command of the right column, crossed the river at a Pass, called the Passo Chico, and falling in with a Corps of the enemy's, gallantly attacked and defeated it, for the particulars of which action I beg to refer you to the annexed Report. Owing to the ignorance of my guide, it was not until the next day that I joined with the main body of the Army, when I formed my line, by placing Brigadier General Sir Samuel Achmuty's brigade upon the left, extending it towards the Convent of the Recoleta, from which it was distant two miles. The 36th and 88th regiments being on its right; Brigadier General Craufurd's brigade occupying the central and principal avenues of the town, being distant about three miles from the Great Square and Fort; and the 6th Dragoon Guards, 9th Light Dragoons, and 45th regiment being upon his right, and extending towards the Residencia. The town was thus nearly invested, and this disposition of the Army, and the circumstances of the town and suburbs being divided into Squares of one hundred and forty yards each side, together with the knowledge that the enemy meant to occupy the flat roofs of the houses, gave rise to the following plan of attack.

Brigadier General Sir Samuel Achmuty was directed to detach the 38th regiment to possess itself of the Plaza de Toros, and the adjacent strong ground, and there take post: the 87th, 5th, 36th, and 88th regiments were each divided into wings; and each wing ordered to penetrate into the street, directly in its front. The light battalion divided into wings, and each followed by a wing of the 95th regiment, and a three-pounder, was ordered to proceed down the two streets on the right of the central one, and the 45th regiment down the two adjoining; and after clearing the streets of the enemy, this latter regiment was to take post at the Residencia. Two six-pounders were ordered along the central street, covered by the Carabineers and three troops of the 9th Light Dragoons, the remainder of which was posted as a reserve in the centre. Each division was ordered to proceed along the street directly in its front, till it arrived at the last square of houses next the River Plata; of which it was to possess itself, forming on the flat roofs, and there wait for further orders. The 95th regiment was to occupy two of the most commanding situations from which it could annoy the enemy. Two corporals with tools were ordered to march at the head of each column for the purpose of breaking open the doors, the whole were unloaded, and no firing

was to be permitted until the columns had reached their final points and formed; a cannonade in the central streets was the signal for the whole to come forward.

In conformity to this arrangement, at half past six o'clock of the morning of the 5th instant, the 38th regiment moving towards its left, and the 87th straight to its front, approached the strong post of the Retiro and Plaza de Toros, and after a most vigorous and spirited attack, in which these regiments suffered much from grape-shot and musketry, their gallant commander Brigadier General Sir Samuel Achmuty possessed himself of the post, taking thirty-two pieces of cannon, an immense quantity of ammunition, and six hundred prisoners. The 5th regiment meeting with but little opposition proceeded to the river, and took possession of the Church and Convent of St. Catalina. The 36th and 88th regiments, under Brigadier General Lumley, moving in the appointed order, were soon opposed by a heavy and continued fire of musketry from the tops and windows of the houses; the doors of which were barricadoed in so strong a manner, as to render them almost impossible to force. The streets were intersected by deep ditches, in the inside of which were planted cannon, pouring showers of grape on the advancing columns. In defiance, however, of this opposition, the 36th regiment, headed by the gallant general, reached its final destination; but the 88th, being nearer to the Fort and principal defences of the enemy, were so weakened by his fire as to be totally overpowered and taken. The flank of the 36th being thus exposed, this regiment, together with the 5th, retired upon Sir Samuel Achmuty's post at the Plaza de Toros; not, however, before Lieutenant Colonel Burne and the Grenadier company of the 36th regiment had an opportunity of distinguishing themselves, by charging about eight hundred of the enemy, and taking and spiking two guns. The two six-pounders moving up the central streets meeting with a very superior fire, the four troops of the Carabineers, led on by Lieutenant Colonel Kington, advanced to take the battery opposed to them; but this gallant officer being unfortunately wounded, as well as Captain Burrell, next in command, and the fire both from the battery and houses proving very destructive, they retreated to a short distance, but continued to occupy a position in front of the enemy's principal defences, and considerably in advance of that which they had taken in the morning.

The left division of Brigadier General Craufurd's brigade, under Lieutenant Colonel Pack, passed on nearly to the river, and turning to the left, approached the Great Square with the intention of possessing itself of the Jesuits' College, a situation which commanded the enemy's principal line of defence. But from the very destructive nature of his fire this was found impracticable, and after sustaining a heavy loss, one part of the division throwing itself into a house which was afterwards not found tenable, was shortly obliged to surrender, whilst the remaining part, after enduring a dreadful fire with the greatest intrepidity, Lieutenant Colonel Pack, its commander, being wounded, retired

upon the right division commanded by Brigadier General Craufurd himself. This division having passed quite through to the River Plata, turned also to the left to approach the Great Square and Fort from the north-east bastion, of which it was distant about four hundred yards, when Brigadier General Craufurd, leaving the fate of his left division, thought it most adviseable to take possession of the Convent of St. Domingo, near which he then was, intending to proceed onwards to the Franciscan Church which lay still nearer the Fort, if the attack or success of any other of our columns should free him in some measure from the host of enemies which surrounded him. The 45th regiment being further from the enemy's centre, had gained the Residencia without much opposition; and Lieutenant Colonel Guard having it in possession of his battalion companies, moved down with the grenadier company towards the centre of the town, and joined Brigadier General Craufurd.

The enemy, who now surrounded the convent on all sides, attempting to take a three-pounder which lay in the street, the Lieutenant Colonel with his company, and a few Light Infantry under Major Trotter, charged them with great spirit. In an instant, the greater part of his company and Major Trotter (an officer of great merit) were killed, but the gun was saved. The Brigadier General was now obliged to confine himself to the defence of the convent, from which the Riflemen kept up a well directed fire upon such of the enemy as approached the post; but the quantity of round shot, grape, and musketry to which they were exposed, at last obliged them to quit the top of the building, and the enemy, to the number of six thousand, bringing up cannon to force the wooden gates which fronted the Fort, the Brigadier General having no communication with any other columns, and judging from the cessation of firing that those next him had not been successful, surrendered at four o'clock in the afternoon.

The result of this day's action had left me in possession of the Plaza de Toros, a strong post on the enemy's right, and the Residencia, another strong post on his left, whilst I occupied an advanced position opposite his centre; but these advantages had cost about two thousand five hundred men in killed, wounded, and prisoners. The nature of the fire, to which the troops were exposed, was violent in the extreme. Grape shot at the corners of all the streets, musketry, handgrenades, bricks, and stones from the tops of all the houses, every householder with his negroes defending his dwelling, each of which was in itself a fortress, and it is not, perhaps, too much to say, that the whole male population of Buenos Ayres was employed in its defence.

This was the situation of the army on the morning of the 6th instant, when General Liniers addressed a letter to me, offering to give up all his prisoners taken in the late affair, together with the 71st regiment, and others, taken with Brigadier General Beresford, if I desisted from any further attack on the town, and withdrew his Majesty's forces from the River Plata; intimating, at the same time, from the exasperated state of the populace, he could

not answer for the safety of the prisoners, if I persisted in offensive measures. Influenced by this consideration, (which I knew from better authority to be founded in fact) and reflecting of how little advantage would be the possession of a country, the inhabitants of which were so absolutely hostile, I resolved to forego the advantages which the bravery of the troops had obtained, and acceded to the annexed treaty, (App. I.) which I trust will meet the approbation of his Majesty.

I have nothing further to add, except to mention, in terms of the highest praise the conduct of Rear Admiral Murray, whose cordial co-operation has never been wanting whenever the army could be benefited by his exertions. Captain Rowley, of the Royal Navy, commanding the seamen on shore, Captain Bayntun, of his Majesty's ship *Africa*, who superintended the disembarkation, and Captain Thompson, of the *Fly*, who had the direction of the gun-boats, and had previously rendered me much service by reconnoitring the river, are all entitled to my best thanks.

As his character already stands so high, it is almost unnecessary to state that from my second in command, Major General Leveson Gower, I have experienced every zealous and useful assistance; my thanks are likewise due to Brigadiers General Sir Samuel Achmuty and Lumley, and to Colonel Mahon and Brigadier General Craufurd, commanding brigades. I cannot sufficiently bring to notice the uncommon exertions of Captain Fraser, commanding the Royal Artillery, the fertility of whose mind, zeal, and animation in all cases left difficulties behind. Captain Squire, of the Royal Engineers, is also entitled to my best thanks; nor should I omit the gallant conduct of Major Nicholls of the 45th regiment, who, on the morning of the 6th instant, being pressed by the enemy near the Residencia, charged them with great spirit, and took two howitzers and many prisoners. Lieutenant Colonel Bradford, Deputy Adjutant General, has likewise a great claim to my approbation as a gallant and promising officer.

The officers of my personal staff, Lieutenant Colonel Torrens, military secretary, Captains Brawn, Foster, Douglas, and Whittingham, aids-du-camp, must also be mentioned by me in terms of just regard; the knowledge which the latter possesses of the Spanish language has been eminently useful to me.

This dispatch will be delivered to you by Lieutenant Colonel Bourke, Deputy Quarter-Master-General, who has afforded me that assistance which might be looked for from an officer of his military talents and attachment to the service; to whom I beg to refer you for any further particulars respecting the military operations in this part of the world.

I have the honour to be, &c.

J. WHITELOCKE, Lieut. Gen.

The Right Honourable William Windham.

TOTAL KILLED, WOUNDED, AND MISSING.

Killed.—1 Major, 6 Captains, 4 Lieutenants, 1 Ensign, 3 Staff, 18 Serjeants, 4 Drummers, 279 Rank and File—316

Wounded.—3 Lieutenant Colonels, 5 Majors, 16 Captains, 33 Lieutenants, 2 Ensigns, 2 Staff, 1 Volunteer, 43 Serjeants, 11 Drummers, 558 Rank and File—674.

Missing.—2 Staff, 1 Quarter-Master, 4 Serjeants, 5 Drummers, 196 Rank and File—208.

Total.—316 killed, 674 wounded, 208 missing—1198.

The Light Company of the 71st regiment, attached to the Light Battalion, suffered severely, but no correct return of their loss has been received.

The prisoners have all been exchanged.

SIR,

Canal of Miserala, July 3, 1807.

I HAVE the honour to report to you, for the information of the Lieutenant General Whitelocke, that the advanced corps under my command, consisting of three companies of the 95th Light Battalion, 36th and 88th regiments, with two three and two six-pounders, advanced from the position I had taken up in front of the village of Reduction; and after making a considerable detour from the badness of the roads, I crossed the Chieulo at the Chico Pass; from thence I continued my route, though very strongly inclosed, and difficult ground, till the head of the column arrived at the junction of two roads, about five hundred yards from the Canal of Miserala. At the same moment that we discovered the enemy, they commenced a heavy though after the first round not well directed fire of shot and shells, my artillery having been left in the rear, under the protection of three companies of Brigadier General Lumley's brigade, owing to the inability of the horses to bring it up at the same rate at which the Infantry marched. I directed an immediate attack to be made on their left flank with the bayonet, which was executed by Brigadier General Craufurd in the most perfect manner with his brigade, and he was so well seconded by the gallantry of Lieutenant Colonel Pack and Major Travers, the officers and men of the 95th, and Light Battalion, that in five minutes the enemy's force, though strongly posted behind hedges and embankments, gave way, leaving about sixty killed and seventy prisoners, with all their artillery, consisting of nine guns, one howitzer, three tumbrils with limbers complete.

I beg to state that the conduct of every officer and soldier engaged was admirable; and that I am also under great obligations to Brigadier General Lumley for his exertions to take a share in the action, but which alone the very exhausted state of his regiments, from the severity of the march, prevented. Immediately after I formed, I found that he had taken a good position on the right of the Light Brigade to support it in case of re-attack.

I am happy to add our loss has been but trifling, not exceeding fourteen rank and file killed, five officers and twenty-five rank and file wounded. The exact returns I have not been able to obtain.

I have the honour to be, &c.

Lient.-Col. Torrens, (Signed) J. LEVESON GOWER,
Military Secretary. Major General.

(H.)

*Copy of the Private Dispatch from General WHITE-
LOCKE, to Mr. WINDHAM.*

SIR,

Buenos Ayres, July 10, 1807.

I have the honour to inform you, that immediately after my arrival at Monte Video on the 10th of May, I began to make every preparation for the attack of this place, as the first and most essential step towards the reduction of the province; for this purpose, sloops of war and other light vessels were ordered to reconnoitre the southern banks of the river, in order to fix upon the precise point of debarkation. It was found that the water was too shallow to admit of a landing under cover of ships of war, any where to the westward of the town of Buenos Ayres, nor nearer to it on the eastward than the Ensanada de Barragon. This bay was therefore fixed upon as the point of debarkation, and every arrangement that could be previously made was pressed forward with expedition, whilst I waited anxiously for the arrival of Brigadier General Craufurd's corps, and the fleet with which he had sailed from England. On the 27th May, Rear Admiral Murray and General Craufurd arrived at the mouth of the river, but owing to a prevalence of contrary winds, the expedition did not reach Monte Video until the 15th of June. I immediately determined not to wait the arrival of the convoy from England, as, by the general voice of the inhabitants in the town, and of those English Officers who had passed the winter in the province, the months of July and August were represented as most unfavourable to military operations, on account of the heavy and continued rains which prevail in that season. Having fixed upon Colonia as the place of assembly from which the expedition was to proceed, I sent the troops upwards in small divisions on account of the intricate navigation of the river, leaving at Monte Video the 47th Regiment, the detachment of the 20th, and 21st Light Dragoons, two companies of the 38th Regiment, and a corps of Militia formed by the British merchants, the whole under the command of Colonel Browne of the 40th Regiment; and after much delay caused by contrary winds, Rear Admiral Murray arrived opposite the point of debarkation on the 28th ult. In the morning stood into the bay, and before night the whole army was landed without opposition on the enemy's coast. The greater part of the next day was occupied in landing artillery, horses, and stores. Immediately on the landing of Brigadier General Craufurd's brigade, and the 38th, and 87th Regiments, I detached Major General L. Gower, with this force, and two three pounders to occupy the heights in my front about five miles distant, and the next morning I proceeded to join him with the rest of the army, four six-pounders, and two three-pounders, the rest of the artillery not being landed. The same day I ordered Major General L. Gower to precede my march

with his advanced corps, substituting the 36th and 88th Regiments under Brigadier General Lumley, for the 38th and 87th, and I left Colonel Mahon with four troops of the 17th Light Dragoons, and the 40th Regiment to protect the guns when they should come up and cover the rear of the army, being principally induced to break my force into these divisions, for the purpose of more readily procuring cover and fuel.

On the 1st of July, the advanced corps drove a small party of the enemy from the village of Reduction, and took post about two miles beyond it, while I occupied the village with the main body. I was now distant about nine miles from the bridge over the Rio Chieulo, on the opposite bank of which I understood the enemy had constructed batteries, and intended to make a stand. I determined, therefore, instead of forcing the bridge, to turn the enemy's line of defence, by marching from our left, and crossing the river in two columns higher up, where it was represented fordable, and continuing to march until I should have got completely to the westward and northward of the town, appuyed my left on the river La Plata, and opened a communication with the fleet. On the 2d instant at nine o'clock, Major General L. Gower marched with his corps, which should now be considered as the right column, and I marched myself at ten o'clock, with the intention of uniting our force that evening in the suburbs of the town. M. G. L. Gower having crossed the river, his leading brigade fell in with a corps of the enemy under General Liniers himself, which he attacked with great vivacity, and completely overthrew it, taking ten pieces of cannon and some prisoners. The Major General halted on the ground from which he had driven the enemy, waiting my arrival, and sending at the same time a summons to General Liniers, which was refused on this occasion, as well as on the following day, when I sent to him myself. Owing to the ignorance of my guide, who conducted me by a considerable detour, I did not reach the Major General until the next day, when I formed the line, by placing one of my brigades under Sir Samuel Achmuty on the left of Brigadier General Lumley, extending it towards the convent of the Recoleta, distant about two miles, and another under Lieutenant Colonel Guard on the right towards the Residencia, whilst Brigadier General Craufurd's brigade occupied the central and principal avenues into the town, being distant about three miles from the great square and fort of Buenos Ayres.

In pursuance of my original design, I intended to march the next morning by my left to the convent of the Recoleta, which standing on high ground immediately over the river, I could have communicated with the fleet, and landed heavy guns for a vigorous attack of the town, should General Liniers obstinately refuse to surrender it: upon consulting, however, with Major General Gower, he submitted to me another plan of attack, which as it promised a more expeditious issue, inasmuch as it obviated the necessity of marching to the left, and the delay which would be occasioned by landing heavy guns, and erect-

ing batteries, a delay which I the more dreaded, on account of the rains having to all appearance set in, and the men being in a great degree exposed to the severity of the weather from the impossibility of conveying camp equipage; I consented for these reasons to change my plan, and to adopt what seemed to be generally approved by the General Officers under me. Besides the measure of bombardment, or any other measure which might occasion an indiscriminate loss of life, ruin the town, and irritate the people, appeared to me upon reflection, contrary to both the spirit and letter of my instructions; I hoped also by this plan, to be able to dislodge those who opposed the progress of his Majesty's arms, and by driving them to the bottom of the town, there make a number of prisoners, which might be in our hands so many pledges for the return of the 71st Regiment, and the other troops captured with Brigadier General Beresford, whilst the peaceable inhabitants, and those best disposed towards us, by remaining quietly in their houses, might escape the danger of attack. The nature of this attack can be best explained by annexing the general order, (App. Q.) The result was successful in the principal points, as I obtained possession of the Plaza de Toros, a strong post on the enemy's right flank, thirty-two pieces of ordnance, and a large depot of ammunition and provisions, as well as the Residencia, another strong post on the enemy's left, and four pieces of cannon which protected it; but these conquests were purchased with the loss of upwards of two thousand five hundred men in killed, wounded, and prisoners, and amongst the latter, Brigadier General Craufurd, and other Officers of rank. The conduct of both officers and men in this action had been gallant in the highest degree, and the severity of the loss occasioned solely by the obstinacy of the defence. The enemy had dug ditches across the principal streets, and placed cannon within them. He occupied the flat roofs of all the houses in commanding situations, and from thence and the windows, formed a destructive fire of musketry, hand grenades, fire pots, &c. on the columns as they advanced, having likewise had the precaution to barricade the doors in so strong a manner as to render them very difficult to force, although the troops had been provided with instruments for that purpose. Every householder with his negroes defended his dwelling, and it is perhaps not too much to say, that the whole male population of Buenos Ayres was employed in its defence, which very population in the field, would probably not have withstood the attack of two British Regiments.

On the morning succeeding the attack, I received a letter from General Liniers, offering to give up all the prisoners taken in the late affair, as well as those taken with Brigadier General Beresford, if I consented to relinquish the attack, and withdraw his Majesty's forces from the province: a correspondence upon this took place, which ended in the treaty I have the honour to transmit: my reasons for acceding to the negotiation were briefly these:—

I had lost in the preceding attack, two thousand five hundred men ; and although I had gained a strong post on the enemy's right flank, from which it might be possible to fire heavy cannon on the town, and otherwise annoy it ; yet the enemy's chief defences were too remote from this point, and too much covered by houses to allow me to hope that I could in any given time destroy them by cannon alone, even if the nature of my instructions had not militated against such a measure ; General Liniers had likewise acquainted me in his letter, that he could not answer for the lives of his prisoners if the attack was persisted in ; and from every thing I have since heard from the Officers themselves, I have reason to believe they would all have been sacrificed to the fury of an exasperated rabble.

Nothing therefore remained to be done offensively but another attack on the town, conducted in a manner similar to the last, the event of which must have been doubtful, as my force, when collected, did not reach five thousand men, and if even successful, my loss would probably have rendered that force insufficient to keep the place when taken. If it was deemed fruitless to attempt another attack ; there yet remained two modes of retreat, either by treaty, or reimbarking in the face of the enemy ; the latter measure would certainly have been attended with additional loss, and the wounded and prisoners in the late affair, as well as the 71st Regiment &c. in all, about four thousand men, lost for ever to Great Britain, in return for which, I should have possessed but a nominal command at Monte Video, a post which can never be considered of any advantage whilst the capital of the province, and the great entrepot of commerce remained in the hands of the enemy.

I determined therefore to accede to this treaty, by which I shall be enabled to bring off my own army almost entire, to recover the 71st regiment, a point which my instructions had taught me to consider as of the first importance, and I shall evacuate a province which the force I was authorised to calculate upon could never maintain, and which from the very hostile disposition of its inhabitants, was, in truth, not worth maintaining. I shall dispose of the army in the manner pointed out in my instructions, the particulars of which I shall communicate to you from Monte Video by another man of war, which will sail from thence with duplicates of these dispatches.

Trusting that the conduct I have pursued in this difficult situation may be approved of by his Majesty,

I have the honour to be,

Sir, yours, &c.

J. WHITELOCKE, Lieutenant General.

N. B. This will be delivered to you by Lieutenant Colonel Bourke, to whom, as well as Sir Samuel Achmuty, I beg to refer you for further particulars.

Right Hon. William Windham, &c. &c.

(I.)

Copy of the DEFINITIVE TREATY between the Generals in Chief of his Britannic Majesty and of his Catholic Majesty, as per the following Articles :

I. There shall be from this time a cessation of hostilities on both sides of the River Plata.

II. The troops of his Britannic Majesty shall retain for the period of two months the fortress and place of Monte Video, and as a neutral country there shall be considered a line drawn from San Carlos on the west, to Pando on the east, and there shall not be on any part of that line hostilities committed on any side, the neutrality being understood only that the individuals of both nations may live freely under their respective laws, the Spanish subjects being judged by theirs, as the English by those of their nation.

III. There shall be on both sides a mutual restitution of prisoners, including not only those which have been taken since the arrival of the troops under Lieutenant General White Locke, but also all those his Britannic Majesty's subjects captured in South America since the commencement of the war.

IV. That for the promptest dispatch of the vessels and troops of his Britannic Majesty, there shall be no impediment thrown in the way of the supplies of provisions which may be requested for Monte Video.

V. A period of ten days from this time is given for the embarkation of his Britannic Majesty's troops to pass to the north side of the River La Plata, with the arms which may actually be in their power, stores, and equipage, at the most convenient points which may be selected, and during this time provisions may be sold to them.

VI. That at the time of the delivery of the place and fortress of Monte Video, which shall take place at the end of the two months fixed in the second article, the delivery will be made in the terms it was found, and with the artillery it had when it was taken.

VII. Three officers of rank shall be delivered for and until the fulfilment of the above articles by both parties, being well understood that his Britannic Majesty's officers who have been on their parole, cannot serve against South America until their arrival in Europe.

Done at the Fort of Buenos Ayres, the 7th day of July, 1807, signing two of one tenor.

JOHN WHITELOCKE,

Lieut. Gen. commanding.

GEORGE MURRAY,

Rear-Admiral commanding.

SANTIAGO LINIERS.

CESAR BALBIANI.

BERNARDO VELASCOS.

(K.)

Copy of a Letter from Mr. WINDHAM to Brigadier-General CRAUFURD.

SIR,

Downing-street, 30th October, 1806.

FROM the success which has attended his Majesty's arms on the east coast of South America, and the experience which the inhabitants of that country have had of the difference between the oppressive dominion of Spain and the benign and protecting Government of his Majesty, a knowledge of which must 'ere this have extended across the continent of South America; it is hoped that an attempt to gain a footing on the west coast of that continent may prove successful.

With a view to this object, and to opening and facilitating a commercial intercourse with the interior of the country, his Majesty has been pleased to direct that a force should be embarked; and I have the satisfaction to add, that his Majesty has been graciously pleased to select you for the command of this force; a competent naval force has also been ordered to proceed with this armament, under the command of Admiral Murray, with whom you are to co-operate; and I am persuaded it is superfluous to point out to you, how much the success of the enterprize may depend on your preserving the most perfect harmony and good understanding with that Officer, and on a like conduct being enforced on all the branches of both services.

The choice of the course to steer, whether to the eastward by the way of South Wales, or to the westward round Cape Horn, is left to Admiral Murray to determine; and on your arrival at the west coast of South America, much must be left to your joint discretion in respect to the precise plan of operations which you shall pursue.

The object of your expedition is the capture of the sea ports and fortresses and the reduction of the province of Chili, to which it is conceived, both from the positive information received, and also from a just inference drawn from the success at Buenos Ayres, that your force is probably adequate.

It is, however, necessary to apprise you, that it is not intended that your operations should pass beyond the limits of Chili, as by the extending them to Peru, and attempting the capture of Lima, even under circumstances apparently favourable, you might engage in an enterprize disproportionate to your means, and by failure might even risk the loss of what may previously have been obtained in Chili, an event which would materially counteract the further views of Government, as to future operations on a more extended scale, in which the force under your command may be destined to co-operate.

If the expedition should go round Cape Horn, it has been represented here, that the best place of rendezvous for the fleet, in case of dispersion, would be the Island of Mocha; on this point, however, Admiral Murray must exercise his own judgment with reference to the season of the year in which you may

arrive in that quarter. Valparaso being the sea port of Saint Jago, as well as the port from which Lima is chiefly supplied with grain, and being represented by the most recent accounts as by no means formidable in point of defence, seems to afford the most favourable object for your first attack. Your determination upon this point must be taken in full concert with Admiral Murray, as the question involves so many points of naval science with respect to the means of approaching the land, and disembarking the troops with the least possible loss. You will bear in mind, that establishing and retaining a strong military position on the west coast of South America, from which future operations may be carried on, is the main object of your enterprize.

If you should succeed in reducing the province of Chili, or any portion thereof, your conduct towards the inhabitants is to be guided by the following instructions:—The ruling consideration which long restrained his Majesty from invading any part of the enemy's territory in South America was the danger of exerting in that country, from the well known impatience of that government felt by the inhabitants, a spirit of insurrection and revolt leading to the most sanguinary excesses, and which, except by the presence of a very superior force, might have been found impossible to controul. To prevent this danger it is his Majesty's will, that all means, either of authority or conciliation, within your power should be employed; and that your principal efforts should always be directed to the maintenance of internal order and tranquillity in the territories occupied by his arms, and even in the countries adjacent thereto, where you are by no means to encourage any acts of insurrection or revolt, or any measures leading to any other change than that of placing the country under his Majesty's protection and government.

It is also his Majesty's will, that the same rights and functions should be continued as much as possible to each class of inhabitants, which they have hitherto enjoyed and exercised, preserving to them the form of their former government, subject only to the changes, which the substitution of his Majesty's authority from that of the King of Spain may render inevitable, with respect either to individuals employed in administering the affairs of the province, or to the laws and regulations by which it is now governed. You will, however, adopt all such measures as shall appear to you to be best calculated for improving the condition and conciliating the good will of the inhabitants: amongst these changes the abolition of the capitation tax, at present imposed upon the Indians, and the different commercial restrictions and monopolies, imposed by the Spanish government, are of course to be included.

It is his Majesty's will, that, in selecting men for employments under this government, particularly in instances of judicial or financial offices, natives of South America should in all cases be preferred to Spaniards; and that in all instances where the former can with any propriety be substituted for the latter, the change should be made.

It is also his Majesty's will, that all the commercial regulations established by his Majesty's Privy Council for the trade of Buenos Ayres, according to the enclosed copies of two orders in council, should, as nearly as circumstances will admit, be extended to all the other possessions which his Majesty may acquire in South America.

But the part of your conduct, in the event, to which I allude, requiring most caution, will be that which relates to assurances to be given to the inhabitants in proclamations, or otherwise, as to the support which they may expect on the conclusion of peace. On this head you cannot follow a better rule than that pursued by Brigadier General Beresford, of abstaining from all declarations by which his Majesty would stand pledged to any conditions, which it might eventually be inconvenient or difficult to fulfil. The inhabitants will witness the extent to which his Majesty's authority will have been established amongst them, and will judge of the reluctance with which he will relinquish possessions, likely to prove so highly beneficial to the interest of this kingdom; and upon this judgment they must be left to regulate their conduct; but no assurance can with propriety be given to them but that of protection, so long as his Majesty's troops shall remain in force in the country, and an anxious wish on the part of his Majesty to regulate the conditions of any future peace as to leave them no cause for apprehension.

If you should succeed in obtaining possession of Valparaso and St. Jago, or establishing any other sufficient footing in Chili, you are to take the earliest possible means of apprizing Brigadier General Beresford thereof, and of concerting with him the means of securing, by a chain of posts or in any other adequate manner, an uninterrupted communication, both military and commercial, between the provinces of Chili and Buenos Ayres.

I have the honour to be, &c. &c. &c.

(Signed)

W. WINDHAM.

(L.)

*Copy of Letter to Brigadier-General CRAUFURD from
Mr. WINDHAM.*

SIR,

October 30, 1806.

IN the management of the pecuniary concerns of the expedition, and (in case of your success) in the civil administration of such parts of the Spanish colonies, as may be occupied by the forces under your command, you will, as far as circumstances admit, attend to the following directions, until His Majesty's further pleasure shall be communicated to you.

You will observe the greatest possible œconomy, so far as depends upon you, with regard to the expenditure of stores, and to the supplies of money, which it may from time to time be necessary to place in the hands of the Commissary or Deputy-Paymaster, attached to the expedition, and you will for this purpose

give such timely information of instruction to such Commissary, as may enable him to provide the necessary articles at the cheapest rate, and to draw bills or procure supplies of specie in the most advantageous manner, taking care not to authorize the making of any purchase, the drawing of any bill, or the issuing of any sums of money, by way of imprest, unless the necessity of so doing shall be made evident to you; and herein, you will carefully attend to the instructions given by the Lords Commissioners of his Majesty's Treasury, to Mr. Deputy Commissary-General Bullock, and Mr. Deputy Commissary-General of Accounts Manby, and enforce, as far as in you lies, a due observation thereof. It is also necessary for you to pay particular attention to the Act, passed in the last Session of Parliament, for the better auditing of Public Accounts, (a copy of which is herewith transmitted to you for that purpose,) and particularly the 8th, 9th, 10th, 12th, and 14th Sections thereof, and you are not only to observe the same, by transmitting regularly to the Lords Commissioners of his Majesty's Treasury, or their Secretaries, and to the Auditors of Public Accounts, such accounts as are therein directed, and within the periods there limited, as far as circumstances will allow, but you are also strictly to require, and cause to be transmitted in like manner, such accounts from all persons whatever, either civil or military, acting under your authority, and having in any shape any receipt or payment of public monies; and on this subject, as well as on all other matters of account, revenue, or expenditure, you are to correspond with one of the Secretaries of the Treasury.

In the event of your obtaining possession of any port or fortress on the coast of Chili, and especially in case any considerable district shall be disposed to place itself under His Majesty's protection, you will use every means in your power to conciliate the good will of the inhabitants, and to convince them of the superior advantages to be derived from British connection and Government; for this purpose it is peculiarly important to abstain from every exercise of the rights of war, which might produce any impression that booty and not protection was the object of the British Government, or of those employed in the expedition, and in this respect, the liberality and ample protection given to private rights and property at the capture of Buenos Ayres is highly commendable and deserving imitation, and this attention is the more necessary as the coasts of South America have at different times been attacked by marauding expeditions, the ravages of which are not yet forgotten, and with which it will undoubtedly be a principal object of the enemy's attention to endeavour to confound the armament, under the command of you and Admiral Murray.

In the next place, you will be very careful to avoid any thing which can give offence to the religious opinions or established usages of the inhabitants, or tend to confound the different classes of their society, or destroy the subordination now habitual amongst them, excepting only, that so far as can be done

without harshness, you will give a preference on all occasions to the Creole, or native inhabitants of the country, over Spanish Europeans.

In case you meet with any French, or other foreign Europeans, resident in the country, you will be particularly attentive to their conduct, and take the most speedy and effectual means to counteract the dangerous designs, which you may have reason to suspect them of forming; and if necessary remove them from the country.

In the management of the public revenue, you will continue to employ, until his Majesty's further pleasure shall be signified to you, such Officers as you may find in possession of the different situations connected therewith, provided you shall have reason to be satisfied of their good conduct, replacing such as you may think suspicious by temporary appointments, until you receive further directions; until such time the existing taxes are to remain on their present footing, excepting as to the abolition of the capitation of the Indians, and such reduction of the custom duties, as has already been mentioned in any other letter.

The management of the mines is also to continue on its present footing, and to be carried on for his Majesty's interest in the same manner as it is now for the interest of the King of Spain, excepting that you will give such orders for improving the condition of the Indians and Negroes therein employed, as may appear to you expedient; and that you will strictly inhibit the importation of Slaves for that or any other purpose conformable to his Majesty's Proclamation for regulating the trade of Buenos Ayres, to which you are in all respects to conform, so far as they may be applicable to any places in your possession.

The sums arising from the public revenue, are to be applied, in the first place, under your direction, to the necessary expenses of the civil government, and, in the next place, to the expenses of the forces under your command, for which purpose the necessary sums will be regularly issued by you to the Deputy Paymaster-General, and to the subsistence and supplies necessary for His Majesty's ships under the command of Admiral Murray; and any surplus remaining after discharging such expenses is to be reserved for his Majesty's disposition. And the accounts of these different applications thereof are to be regularly transmitted home as well by yourself as by the subordinate Officers employed therein, for the examination and final audits of the Commissioners for auditing the public accounts, in the manner above described.

You will, in concert with Admiral Murray, give such directions respecting the coasting-trade of the province and its intercourse with Peru, as circumstances may appear to you to require, and on this subject, no precise directions can be given; but it would seem most likely to promote the objects of the British Government that this trade should be protected and kept open, unless interrupted by the enemy.—1st. In order to afford the means of disposing of the productions of the province of

Chili, the agriculture of which will otherwise be checked, and of receiving those returns which are necessary to support its circulation and trade.—2dly. In order to encourage the introduction of British goods into Peru from the ports of Chili, which may be expected to become depots of trade to a considerable extent.—And, 3dly, Because such an intercourse may furnish many opportunities of impressing the advantages of British connection on the minds of the Peruvians, and disposing them to concur in any measures which may be taken for subverting the Spanish Government.

I am further to add, that you are, on no account, to make, or authorise to be made, any grants of lands or licenses for the occupation thereof, without special directions from his Majesty.

I have the honour to be, &c. &c. &c.

(Signed)

W. WINDHAM.

(M.)

Copy of Order in Council.

At the Court at the the Queen's Palace, 1st October, 1806.

PRESENT,

The King's Most Excellent Majesty in Council.

WHEREAS it hath been represented to his Majesty, that over and above the royal duties and the consulate and municipal duties, payable upon divers articles exported from the city, town, and fortress of Buenos Ayres and its dependencies, including therein all and every the territories belonging to, or forming a part of the government of the same, a duty of two reals upon each ox-hide, and of one real upon each horse-hide exported was levied and paid during the time the said city, town, and fortress of Buenos Ayres and its dependencies were under the Spanish government: And whereas the commander of his Majesty's forces, to whom the said city, town, and fortress have surrendered, has thought fit, until his Majesty's pleasure should be known, to reduce the said additional duty to one real upon each ox-hide, and to make a proportionate reduction of the duty payable upon each horse-hide exported; his Majesty is thereupon pleased to order and declare, that the said reduced duties, and no other, shall, until the further signification of his Majesty's pleasure, continue to be paid upon each ox-hide and horse-hide exported as aforesaid in British ships, owned by his Majesty's subjects, and navigated according to law; or in ships bonâ fide belonging to any of the subjects or native inhabitants of the said city, town, and territories; such native inhabitants being peaceably resident within the same, and under the obedience of his Majesty's government there;—And the Right Honourable the Lords Commissioners of his Majesty's Treasury, and the Lords Commissioners of the Admiralty, are to give the necessary directions herein, as to them may respectively appertain.

W. FAWKENER.

(N.)

Copy of Order in Council.

At the Court at the Queen's Palace, the 17th of Sept. 1806.

PRESENT,

The King's Most Excellent Majesty in Council.

WHEREAS the capital, city, town, and fortress of Buenos Ayres, and its dependencies, have been conquered by his Majesty's forces, and the territory and forts of the same are delivered up to his Majesty, and the same are now in his Majesty's possession; his Majesty is thereupon pleased to order and declare, and it is hereby ordered and declared, that all his loving subjects may lawfully trade to and from the said capital, city, town, and fortress of Buenos Ayres, and its dependencies, including therein all and every the territories belonging to, or forming a part of the government of the same, in British ships owned by his Majesty's subjects, and navigated according to law; or in ships *bonâ fide* belonging to any of the subjects or native inhabitants of the said city, town, or territories, such native inhabitants being peaceably resident within the same, and under the obedience of his Majesty's government there; and that such trade shall be subject to the same duties, rules, regulations, and restrictions, penalties, and forfeitures, to which the trade to and from his Majesty's colonies, plantations, and islands, in the West Indies and South America, is, or shall be subject by law, except as is hereinafter specified.

And his Majesty is further pleased to order and declare, and it is hereby ordered and declared, that all commodities being of the growth, produce, or manufacture of the said capital, city, town, and fortress of Buenos Ayres and its dependencies, including therein all and every the territories belonging to, or forming a part of, the government of the same, or which have been usually exported therefrom, shall be permitted to be imported into any of the ports of the United Kingdom in British ships, owned by his Majesty's subjects, and navigated according to law; or in ships *bonâ fide* belonging to any of the subjects or native inhabitants of the said city, town, or territories, such native inhabitants being peaceably resident within the same, and under the obedience of his Majesty's government there; and that such commodities shall be subject to the same duties, rules, regulations, restrictions, conditions, penalties, and forfeitures, as articles of the like sort are subject to coming from his Majesty's colonies, plantations, or islands in the West Indies or South America.

And whereas information has been received, that the commander of his Majesty's forces, to whom the said city, town, and fortress have surrendered, has reduced the duties on importation into the same, from about $34\frac{1}{2}$ per cent. *ad valorem*, to 10 per cent. *ad valorem*, and $2\frac{1}{2}$ per cent. for the consulate or mu-

nicipal duties, making in the whole $12\frac{1}{2}$ per cent. on all articles imported into the said place and its dependencies, in British ships, owned by his Majesty's subjects, and navigated according to law; or in ships bonâ fide belonging to any of the subjects or native inhabitants of the said city, town, or territories, such native inhabitants being peaceably resident within the same, and under the obedience of his Majesty's government there; his Majesty thereupon is pleased to order and declare, that the said reduced duties shall continue to be levied, and no other, on all articles so imported, with the exception of German linens, which are to continue to be subject to the same duties as were paid thereon before the conquest of the said place by his Majesty's arms, until his Majesty's pleasure shall be further signified;—and it is hereby further ordered, that it shall not be lawful for any slave or slaves to be landed or imported, or brought into the said city, town, and fortress of Buenos Ayres and its dependencies, including therein all and every the territories belonging to, or forming a part of the same as aforesaid, upon pain that all slaves so landed, imported, or brought, together with the vessels bringing in the same, or from which the same shall be landed, and their cargoes, shall become forfeited to his Majesty, his heirs, and successors: provided always that this prohibition shall not extend to the several cases of slaves bonâ fide employed as domestic slaves, and coming into the said place with their masters, or of slaves in any manner employed in his Majesty's naval or military service:—and the Right Honourable the Lords Commissioners of his Majesty's Treasury, and the Lords Commissioners of the Admiralty, are to give the necessary directions herein, as to them may respectively appertain.

W. FAWKENER.

(O.)

Copy of Major General GOWER's Letter, and Summons.

Canal de Massarala, before Buenos Ayres,

SIR,

July 3, 1807.

CAPTAIN ROCHE of the 17th Dragoons, whom I had the honour of sending in to you this morning, having informed me that you wished me to communicate with you on the subject of terms, I beg to acquaint you, that his Excellency General Whitelocke has ordered me (from his sincere wish to spare an unnecessary effusion of blood) to intimate to you, that in the present situation of affairs, if they do not proceed to further, he will grant terms to the town of Buenos Ayres; that the following must be the basis on which they are to be granted, but that any trifling alleviation which may make them more favourable without altering their original fundamental stipulations, may possibly be agreed to.

1st. All British subjects detained in South America must be

delivered up, and sufficient hostages placed in the power of the British commander till their arrival at Buenos Ayres.

2d. That all persons holding civil offices dependent on the government of Buenos Ayres, and all military officers and soldiers, become prisoners of war.

3d. That all cannon, stores, arms, and ammunition, be delivered up uninjured.

4th. That all public property of every description be delivered up to the British commanders.

5th. That the free and unrestrained exercise of the Roman Catholic religion be granted to the inhabitants of Buenos Ayres.

6th. That all private property on shore shall be respected and secured to its owners.

Our force is so considerable, that I believe, in candour, you cannot doubt of the ultimate result. I trust you will believe me when I assure you, that a wish to avoid so dreadful a scene as that which a town taken by assault always presents, is the only thing which has induced his Excellency Lieutenant General Whitelocke to permit me to address you, &c. &c. &c.

J. L. GOWER.

His Excellency General Liniers.

(P.)

Copy of a Letter from Colonel ELIO.

SIR,

July 3, 1807.

By order of the Spanish General D. Santiago de Liniers, I answer to the letter brought by your flag of truce respecting the surrender of this capital, by saying that nothing relative to the laying down our arms will be attended to. That the Spanish General has a sufficient number of brave troops, commanded by brave chiefs, full of desire to die in defence of their country, and that this is the moment to shew their patriotism.

I remain, &c. &c. &c.

Maj.-Gen. Leveson Gower.

ELIO.

(Q.)

Plan of Attack.

(CIRCULAR)

Head Quarters, Camp before Buenos Ayres, July 3, 1807.

SIR,

HEREWITH I have the honour to inclose instructions for the attack of Buenos Ayres; the refusal of the Spanish General to listen to terms, and the state of the army from fatigue and bad weather, leaves but little choice as to the mode of accomplishing our purpose, otherwise I should assuredly be disposed to adopt one equally calculated to secure to us possession of the place without the probable chance of so much blood being spilt.

I therefore have to desire that you will impress upon the minds of all Officers acting under your immediate orders, the necessity of preventing, in as great a degree as possible under such circumstances, acts of violence on the persons of those who do not carry arms, as well as women and children.

I have the honour to be, &c.

To Brigadiers.

(Signed) JOHN WHITELOCKE.

GENERAL ORDERS.

*Head Quarters, before Buenos Ayres,
July 4, 1807.*

Sir Samuel Achmuty to detach the 38th regiment to possess itself of the Plaza de Toros and the adjacent strong grounds, and there post itself.

The 87th, 5th, 36th, and 38th regiments to be divided into wings, and each wing is to penetrate into the street directly in its front.

The Light Battalion to penetrate by wings into the second street, on the right of that leading up from Mr. White's house, and the next to it followed by the 95th.

The left division of the 95th is to receive its orders from Colonel Pack, the right division from General Craufurd; two three-pounders to follow these columns, one each.

The 45th to advance by wing, left in front, up the two next streets beyond the Light Battalion.

The Carabineers to move up with and cover two six-pounders, which will be advanced up the street by Mr. White's house, and remain with them.

The 9th Light Dragoons to move to the left, and take the ground of the Light Battalion at 5 o'clock, where they will remain till further orders.

Each Officer commanding a division of the left wing, which is from the 88th to 87th inclusively, to take care that he does not incline to his right of the right wing, that is, Light Brigade and 45th to the left.

The cannonade in the centre to be the signal for the whole to rush forward; and each division to go, if possible, straight down the street before it, till it arrives at the last square of houses near the River Plata, of which they are to possess themselves, and on the top of which they are to form: if they find that they suffer from any interior defences, to lodge themselves as far in advance as they can. Two corporals with tools to be attached to the head of each column.—The whole to be unloaded, and no firing to be allowed on any account.

When the business is over, the utmost exertions to be used to keep the men collected and formed.

The regiments may leave their packs in their present cantonments, with a subaltern's guard, if they wish it.

The cannonade will commence at thirty minutes past six o'clock precisely.

(Referred to in p. 354.)

*Copy of a Letter from Lieutenant General WHITELOCKE
to General LINIERS.*

*Head Quarters, before Buenos Ayres,
July 4, 1807.*

SIR,

I BEG you will do me the justice to impute to the principles of humanity only, the information I give you of my arrival, having joined the troops under the command of Major General Leveson Gower with the principal column of my army; I dare say it is not unknown to you, that another column awaits my orders within little more than one league of your capital. I have considerable reinforcements on board ship, and a navy ready to support such military operations as may be adopted. I beg therefore only to be informed, if, after this faithful communication, you still adhere to the answer given to the Major General in your letter of yesterday, who was authorised to address you on this subject, in the event of his arrival before me.

The bearer, Captain Whittingham, has my orders to deliver this, and to wait half an hour from that time for your answer.

Yours, &c. &c. &c.

General Liniers.

J. WHITELOCKE.

(Referred to in p. 357.)

*Copy of Letter from General LINIERS to General WHITE-
LOCKE.*

SIR,

4th July.

I HAVE just received your Excellency's letter of this date; to the contents of which I have the honour to reply, that whilst I have ammunition, and whilst the same spirit which now animates the garrison and people shall continue to exist, I shall never think of delivering up the post which has been confided to me; and I am perfectly convinced, that I have more than sufficient means to resist all the efforts which your Excellency can make to conquer me.

The duties of humanity of which your Excellency speaks will, I conceive, be more wounded by your Excellency, who is the aggressor, than by me. I merely do that duty which is prescribed to me by honour and the just right of retaliation.

I have the honour to be,

&c. &c. &c.

(Signed)

SANTIAGO LINIERS:

General Whitelocke.

(1. Referred to in p. 385.)

Return of Provisions and Forage on board Vessels proceeding up the River La Plata.

Ship's Names	Flour Pounds.	Biscuit Pounds.	Beef Pounds.	Pork Pounds.	Sugar Pounds.	Spirits Galls.	Ind. Corn & Farina, lbs.
Flora - -	82,656	84,000	82,656	82,734			
Barre - -	135,072	134,400	135,072	135,060	44,842		
Countess of Cardigan -							140,000
Nancy - -		64,487	66,200	22,000		5124	
Total - -	217,728	282,887	283,928	239,794	44,842	5124	140,000

Monte Video, 19th June, 1807.

JOSEPH BULLOCK, Commissary-General.

(2. Referred to in p. 385.)

Return of the Number of Provisions landed at the Ensanada, and how disposed of.

Date		Bread lbs.	Spirits galls.
June 29.	Three days supplies, about - - -	21,000	230
30.	Issued to the troops going on with the artillery and bat-horses, to complete three days supply, about - -	1500	
	Left on the ground about	17,000	230
	Remainder, carried on horses over the swamp - - - - -	2,500	
	Issued over the swamp, about - - - -	500	
	Remainder - - - - -	2000	
July 2.	Issued about - - - - -	2000	

Return of Provisions stated to have been landed at Reduction, and how disposed of.

Date		Bread lbs.	Spirits galls.
July 5.	Landed from the 2d inst. to this day -	12,911	496
	Issued to the Hon. Col. Mahon's Brigade, from the 2d, to the 5th inst. inclusive - - -	10,630	263
	Lost in the swamp between the landing place and Reduction, or left on the ground - - -	2,281	233

(R.)

Copy of a Letter from General LINIERS to Lieutenant General WHITELOCKE.

SIR,

5th July.

THE same sentiments of humanity which induced your Excellency to propose to me to capitulate, lead me now, that I am fully acquainted with your force, that I have taken 80 Officers and upwards of 1000 men, and killed more than double that number, without your having reached the centre of my position; the same sentiments I say, lead me in order to avoid a greater effusion of blood, and to give your Excellency a fresh proof of Spanish generosity, to offer to your Excellency, that if you choose to reimbarc with the remainder of your army, to evacuate Monte Video, and the whole of the River Plate, leaving me hostages for the execution of the treaty, I will not only return all the prisoners which I have now made, but also all those which were taken from General Beresford: at the same time I think it necessary to state, that if your Excellency does not admit this offer, I cannot answer for the safety of the prisoners, as my troops are so infinitely exasperated against them, and the more so, as three of my Aid-de-Camps have been wounded bearing flags of truce; and for this reason I send your Excellency this letter by an English Officer, and shall wait your answer for one hour.

*Buenos Ayres, 5th July, 1807. }
At 5 o'clock in the Evening. }*

(Signed.) S. LINIERS.

P. S. After writing the above, General Craufurd with all his division, and many Officers of different regiments, have been taken prisoners.

(S.)

Copy of a Letter from Lieutenant General WHITELOCKE, to General LINIERS.

SIR, Head Quarters, Plaza de Toros, July 6th, 1807.

I HAVE the honor to acknowledge the receipt of your letter. You do me no more than justice in believing that whatever advances the cause of humanity would be grateful to me, and therefore, as from the extent of the action of yesterday, the wounded are dispersed over a considerable space of ground, I would propose, that there should be a truce for four and twenty hours, that each might collect those dispersed in the line of approach, to the different columns.

The ground on which the armies now stand to be the land of demarkation, and each to bring the wounded of the other, to deliver them at their respective out-posts.

As to the idea of surrendering the advantage which the army

has gained is quite inadmissible. Having also taken many prisoners, captured a quantity of artillery with all its stores, and gained both your flanks; I leave to your candour the comparison, the relative situation of the two armies.

I have to lament the circumstance of Aid-de-Camps having been wounded. I cannot account for it otherwise, than by attributing it to those mistakes which often occur at the commencement of hostilities. I shall take care that nothing of the kind shall happen in future, but I have to remark, that my Aid-de-Camp was fired at the whole of the way of his approach to your lines on the 4th instant, when I sent him with a flag of truce.

(Signed)

J. WHITELOCKE.

General Liniers.

has gained is quite inadmissible. Having also taken many pri-
vate orders, captured a quantity of artillery with all its stores, and
gained both your thanks; I leave to your command the con-
sideration of the relative situation of the two armies.
I have to lament the circumstance of Aid-de-Camp having
been wounded. I cannot account for it otherwise, than by
attributing it to those mistakes which often occur at the com-
mencement of hostilities. I shall take care that nothing of the
kind shall happen in future, but I have to remark, that my Aid-
de-Camp was fired at the whole of the way of his approach to
your lines on the 21st instant, when I sent him with a flag of
truce.

(Signed) J. WITTEBOCK
General Editor

